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FEDERAL REGISTER

VOLUME 9 NUMBER 11

Washington, Saturday, January 15, 1944

Regulations

TITLE 7—AGRICULTURE

Chapter XI—War Food Administration (Distribution Orders)

[FDO 1, Amdt. 6]

PART 1404—BAKERY PRODUCTS

MANUFACTURE AND DISTRIBUTION OF BAKERY PRODUCTS

Food Distribution Order No. 1, as amended (8 F.R. 16777), § 1404.1, issued by the Secretary of Agriculture on December 29, 1942, is further amended by deleting the period (.) at the end of (d) (1) and substituting, in lieu thereof, the following:

Provided, however, That until May 1, 1944, this requirement shall apply only to white bread.

This order shall become effective at 12:01 a. m., e. w. t., January 16, 1944.

With respect to violations, rights accrued, liabilities incurred, or appeals taken under Food Distribution Order No. 1, as amended, prior to the effective date of this amendment, all provisions of Food Distribution Order No. 1, as amended, in effect prior to this amendment shall be deemed in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9230, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 13th day of January 1944.

ASHLEY SELLERS,
Assistant War Food Administrator.

[F. R. Doc. 44-740; Filed, January 13, 1944;
5:01 p. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Regs., Serial No. 299]

OPERATIONS OF AMERICAN AIRLINES, INC., AT JOPLIN, MO.

SPECIAL CIVIL AIR REGULATION

Noncompliance with the requirements of § 40.2611 (b) of the Civil Air Regulations with respect to the operations of American Airlines, Inc., at Joplin Airport, Joplin, Missouri.

Adopted by the Civil Aeronautics Board at its office in Washington, D. C., on the 12th day of January 1944.

The following Special Civil Air Regulation is made and promulgated to become effective January 15, 1944:

Notwithstanding § 40.2611 (b) of the Civil Air Regulations any first pilot listed in the American Airlines, Inc., air carrier operating certificate on January 15, 1944, who is qualified as competent to operate an aircraft in scheduled air transportation between St. Louis, Missouri, and Tulsa, Oklahoma, on January 15, 1944, may pilot aircraft under day contact operations in scheduled transportation for said carrier into and out of Joplin Airport, Joplin, Missouri, upon furnishing evidence satisfactory to the Administrator showing that the pilot is thoroughly familiar with the form and condition of the airport and with the location and nature of any obstructions in the vicinity.

(52 Stat. 984, 1007; 49 U.S.C. 425, 551)

By the Civil Aeronautics Board.

[SEAL]

FRED A. TOOMBS,
Secretary.

[F. R. Doc. 44-759; Filed, January 14, 1944;
11:01 a. m.]

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NOTICE

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TITLE 25—INDIANS

Chapter I—Office of Indian Affairs, Department of the Interior

Subchapter J—Heirs and Wills

PART 81—DETERMINATION OF HEIRS AND APPROVAL OF WILLS, EXCEPT MEMBERS OF THE FIVE CIVILIZED TRIBES AND OSAGE INDIANS

The amendments and additions are hereby made to the sections of Part 81 of Title 25, Indians, Code of Federal Regulations as hereafter appear; and § 81.36 is repealed;

Substitutions. In §§ 81.4, 81.38, 81.48, 81.49, 81.53 and 81.54 (first sentence) wherever the titles "Secretary of the Interior" or "Secretary" appear there is hereby substituted therefor the title "Commissioner." In the last sentence of § 81.54 the words "or the Secretary of the Interior" are eliminated without substitution.

In §§ 81.4, 81.5, 81.47 and 81.51, wherever appears "Washington Office" there is hereby substituted therefor, "Commissioner."

§ 81.0 *Definitions, functions.* (a) "Secretary" means Secretary of the Interior.

(b) "Commissioner" means Commissioner of Indian Affairs, Department of the Interior.

(c) "Superintendent" means superintendent for an Indian Agency.

(d) "Examiner" means any employee upon whom authority has been conferred by the Secretary or Commissioner to conduct hearings in accordance with the regulations of this part.

(e) "Agency" means Indian agency having jurisdiction over the estate.

(f) "Department" means Department of the Interior.

(g) The function of determining heirs and probating estates in conformity with

this part shall be performed by the Commissioner. An appeal may be taken to the Secretary within 60 days from the date of notice of the Commissioner's decision.

§ 81.30 *Contents of record.* * * *

(1) The record must also be accompanied by the proper findings of fact or recommendations of the Examiner and proper order for the signature of the Commissioner.

(m) A duplicate record of the case shall be made and kept in the agency file, to which must be attached a carbon copy of approved Examiner's recommendation and copies of the Commissioner's decision and departmental decision when received.

(o) In reports on testacy cases, the original will or a certified copy thereof with the supporting affidavits and statements.

§ 81.34 *Rehearings.* Any aggrieved person claiming an interest in the trust or restricted property of an Indian, who has received notice of the hearing or who was present at the hearing, may file a petition for rehearing within sixty (60) days from the date of notice on him of the determination of heirs or action on a will. A petition so filed shall act as a supersedeas until otherwise directed by the Commissioner. Distribution of the estate may be made by the superintendent after sixty (60) days have elapsed from the date of notice of the determination of heirs or action on the will unless a petition for rehearing is received within such period by the Superintendent or unless otherwise directed by the Commissioner.

Any such petition for rehearing must be under oath and must state concisely and specifically the grounds upon which it is based and must be accompanied by the sworn statements of at least two disinterested persons having knowledge of the facts. It should be addressed to the Commissioner and submitted through the superintendent.

If proper grounds are not shown the rehearing will be denied by the Commissioner. If the petition for rehearing is found to have merit the petitioner may be required to serve a copy of his petition together with all argument on each adverse party within fifteen (15) days from date of notice. Each adverse party will be allowed thirty (30) days thereafter in which to file his answer.

Thereafter the case will be again considered and appropriate action taken, which may consist either in adhering to the former decision or modifying or vacating same, or in making any further or other order deemed warranted. No decision of the Commissioner will be reconsidered on the petition of any person who had notice of the hearing or who was present at such hearing and received notice of the Commissioner's decision, unless such petition is filed within the sixty (60) day period specified.

§ 81.35 *Reopenings.* Petitions for reopening a determination of heirs or action on a will, will not be considered

when three (3) years or longer have elapsed since the decision of the Commissioner. Within that period, but not thereafter, any person claiming an interest in the estate who had no notice of the original proceeding may petition for reopening of the case. Any such petition must be in writing addressed to the Commissioner and submitted through the Superintendent. All grounds for reopening must be set forth fully. If based on alleged errors of fact all such allegations must be under oath and must be accompanied by affidavits, or other supporting evidence. If proper grounds are not shown the petition may be denied by the Commissioner. If the petition appears to have merit the Commissioner shall cause service to be had on the adverse parties of all papers filed by the petitioner and an opportunity shall be afforded the adverse parties to answer the petition filed within thirty (30) days after notice from the Commissioner. Thereafter, all papers filed shall be submitted to the Commissioner for action either denying or granting a reopening.

§ 81.35a *Appeals*. Interested parties should be advised that they may within sixty (60) days after the date of notice of the Commissioner's decision file with the Commissioner a notice of appeal to the Secretary from that decision. Such notice of appeal must be in writing, setting forth the grounds of the appeal and where alleged error is based upon insufficiency of the evidence to justify the decision, the particulars wherein it is deemed insufficient must be set forth specifically in the notice of appeal. Upon failure to file notice of appeal as herein provided the case will be closed. Upon receipt of a notice of appeal, the Commissioner will transmit immediately to the Secretary the record which includes all prior proceedings in the case. Without specific authority from the Secretary, no distribution of any estate shall be made prior to the expiration of sixty (60) days from the date of the Commissioner's decision or during the pendency of any appeal filed pursuant to this section.

§ 81.36 *Rehearing on wills*. This section is hereby repealed, effective this date.

(36 Stat. 855, 37 Stat. 678, 45 Stat. 161, 48 Stat. 647; 25 U.S.C. 372, 373)

HAROLD L. ICKES,
Secretary of the Interior.

DECEMBER 17, 1943.

[F. R. Doc. 44-692; Filed, January 13, 1944;
9:49 a. m.]

TITLE 29—LABOR

Chapter VI—National War Labor Board

PART 803—GENERAL ORDERS

ADJUSTMENTS OF WAGE RATES

General Order 16, adopted by the National War Labor Board on November 24, 1942, is hereby amended by striking therefrom subparagraph (1) thereof and re-numbering subparagraphs (2) and

(3). The amended general order is as follows:

§ 803.16 *General Order No. 16*. Adjustments which equalize the wage or salary rates paid to females with the rates paid to males for comparable quality and quantity of work on the same or similar operations, and adjustments in accordance with this policy which recognize or are based on differences in quality or quantity of work performed, may be made without approval of the National War Labor Board: *Provided*, That:

(1) Such adjustments shall be subject to the Board's ultimate power of review, but any modification or reversal thereof will not be retroactive;

(2) Such adjustments shall not furnish a basis either to increase price ceilings of the commodity or service involved or to resist otherwise justified reductions in such price ceilings.

Interpretation No. 1 to General Order No. 16 is hereby amended by striking therefrom the last sentence, commencing with the word "Such" and ending with the words "General Order No. 16". The amended interpretation is as follows:

INTERPRETATION 1

Wage adjustments required by State statutes which prohibit wage discrimination between the sexes are "adjustments which equalize the wage or salary rates paid to females with the rates paid to males for comparable quality and quantity of work on the same or similar operations" within the meaning of General Order No. 16, and may be made without approval of the National War Labor Board.

(E.O. 9250, 7 F.R. 7871)

Adopted January 3, 1944.

THEODORE W. KHEEL,
Executive Director.

[F. R. Doc. 44-757; Filed, January 14, 1944;
10:34 a. m.]

TITLE 30—MINERAL RESOURCES

Chapter VI—Solid Fuels Administration for War

[Order 11]

PART 601—ADMINISTRATIVE; GENERAL
ORDER ESTABLISHING LAKE DOCK COAL ADVISORY COMMITTEE AND TIDEWATER DOCK COAL ADVISORY COMMITTEE

It would be very helpful in carrying out the purposes of Executive Order No. 9332 (8 F.R. 5355) if there were available a Lake Dock Coal Advisory Committee and a Tidewater Dock Coal Advisory Committee. Accordingly, in order to effectuate the purposes of Executive Order No. 9332 and by virtue of the authority conferred by that order, the following order is issued by the Solid Fuels Administrator for War:

§ 601.41 *Establishment and functions of committees*. A Lake Dock Coal Advisory Committee and a Tidewater Dock Coal Advisory Committee are hereby created to furnish (a) such information and advice as may be requested from time

to time by the Solid Fuels Administration for War and (b) any information and advice which the committees believe would help in carrying out the purposes of Executive Order No. 9332. Members of these committees shall serve without compensation.

(E.O. 9332, 8 F.R. 5355; E.O. 9125, 7 F.R. 2719; sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 176)

Issued this 12th day of January 1944.

HAROLD L. ICKES,
Solid Fuels Administrator for War.

[F. R. Doc. 44-760; Filed, January 14, 1944;
10:59 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter IX—War Production Board

Subchapter B—Executive Vice-Chairman

AUTHORITY: Regulations in this subchapter issued under sec. 2 (a), 54 Stat. 676, as amended by 55 Stat. 236 and 56 Stat. 176; E.O. 9024, 7 F.R. 329; E.O. 9125, 7 F.R. 2719; W.P.B. Reg. 1 as amended March 24, 1943, 8 F.R. 3668, 3696; Pri. Reg. 1 as amended May 15, 1943, 8 F.R. 6727.

PART 1010—SUSPENSION ORDERS

[Suspension Order S-452, Stay of Execution]

SAMUEL HELLER LEATHER COMPANY, INC.

Samuel Heller Leather Company, Inc. has appealed to the Chief Compliance Commissioner from the provisions of Suspension Order S-452 on the following grounds: (a) that its case suffered because it was not represented by counsel at the Compliance hearing; and (b) that it has material evidence which was not produced at the hearing. The Compliance Commissioner who presided at the hearing is of the opinion that the company should be given an opportunity to present additional evidence. The Chief Compliance Commissioner has directed that the case be reopened, that the company be permitted to offer additional evidence at a further hearing, and that Suspension Order No. S-452 be stayed. In view of the foregoing, it is hereby ordered, that:

§ 1010.452 *Stay of execution of Suspension Order S-452*. (a) The provisions of § 1010.452 Suspension Order S-452, issued December 15, 1943, shall be stayed and shall be of no force or effect pending further order and direction from the War Production Board.

Issued this 13th day of January 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-739; Filed, January 13, 1944;
4:39 p. m.]

PART 3154—HARDWARE SIMPLIFICATION

[Limitation Order L-236, Interpretation 1 to Schedule II]

MARINE JOINER HARDWARE

The following interpretation is issued with respect to Schedule II of Limitation Order L-236:

Paragraph (d) (3) of Schedule II to Limitation Order L-236 provides that the schedule does not restrict the manufacture, fabrication or assembly of "marine joiner hardware manufactured to fill a contract of the Army, Navy, Maritime Commission or War Shipping Administration, when such contract has been executed prior to the 28th day of August 1943."

The contract referred to in this paragraph is a contract for the delivery of marine joiner hardware, not a contract for the construction of a ship on which such hardware is to be used.

Issued this 14th day of January 1944.

WAR PRODUCTION BOARD,

By J. JOSEPH WHELAN,

Recording Secretary.

[F. R. Doc. 44-768; Filed, January 14, 1944; 11:08 a. m.]

PART 3175—REGULATIONS APPLICABLE TO THE CONTROLLED MATERIALS PLAN

[CMP Reg. 1, Direction 22, as Amended Jan. 14, 1944]

SPECIAL ALLOTMENTS

The following direction is issued pursuant to CMP Reg. 1, as amended:

(a) *Purpose.* (1) This direction outlines the way in which a manufacturer of Class A products who does not receive allotments from his customers in time to permit him to make full use of them, may apply for a special allotment.

(2) Special allotments will not be granted except in extraordinary cases of urgent need where a clear showing is made that failure to make the allotment will actually cause an interruption of production to the detriment of the war effort and that the applicant has made a diligent effort to obtain allotments from his customers and has been unable to do so. The showing of these facts must be set up in the letter of transmittal covering the application.

(3) Usually manufacturers applying for a special allotment will be either those who are several steps removed from a prime consumer and where unavoidable delay is involved in passing allotments down or those engaged in long cycle operations whose customers are not able to furnish them with advance allotments.

(4) Special allotments will not be granted to prime consumers.

(b) *How to apply for special allotments.* Applications for special allotments should be made on Form CMP-4B. The following variations from the instructions for preparing the form must be observed:

(1) Mark the application "Special Allotment Procedure" in Item 3 of the heading.

(2) Insert in Item 4 of the heading the description of the A product covered by the application.

(3) The applicant must show in Section B his total anticipated production schedule for the Class A product covered by the application to be produced from the allotments for the quarters for which application is made.

(4) The applicant must show in Section C his total requirements during the quarters covered by the application to fill the total anticipated production schedule shown in Section B.

(5) Section D must be filled out in accordance with the instructions.

(6) The applicant must show in Section E the quantity of controlled materials for which a special allotment is required which will be the difference between the quantities shown in Section C and the quantities shown in Section D.

(7) All other information called for on the CMP-4B application, including shipment by preference ratings and Claimant Agencies (Section A), must be given by the applicant. The application should be filed with the War Production Board Ref: Special Allotment Procedure, and must be accompanied by a letter of transmittal explaining fully why the applicant feels he is entitled to special treatment.

(8) In those cases where the applicant has been instructed by a particular Claimant Agency or Industry Division to file an application for a special allotment he should indicate the name of the Claimant Agency or Industry Division in Item 1 of the heading.

(c) *Conditions on use of special allotments.* Conditions on the use of special allotments will be imposed in the letter of transmittal accompanying Form CMP-150 on which the special allotment will be made. Among the conditions will be the following:

(1) A consumer receiving a special allotment must not use any allotment received from his customers to purchase controlled materials or Class A products needed in manufacturing the Class A product covered by the special allotment. This restriction applies only to the quarter or quarters covered by the special allotment. However, when a consumer has returned customer's allotments, as provided by paragraph (c) (4), in the full amount of the special allotment made to him for any one quarter, the consumer may use allotments from his customers during the rest of the quarter just as though the special allotment had never been made.

(2) Authorized controlled material orders placed, or allotments made, on the basis of allotments received from customers (including SO orders received) prior to receiving the special allotment need not be changed, but the consumer receiving the special allotment must deduct from it the quantity of such orders and allotments for the same quarter.

(3) A manufacturer receiving a special allotment must not deliver any Class A product made out of controlled materials covered by the allotment to any customer unless the customer furnishes the manufacturer with an allotment and an authorized production schedule.

(4) A consumer receiving a special allotment must, not later than the fifth day of each calendar month following receipt of the special allotment, return to the Claimant Agency or Industry Division making the special allotment all allotments received from his customers for the manufacture of the Class A product covered by the special allotment, and must report allotments received and used prior to receipt of the special allotment. The return of allotments and reports must be made on Form CMP-28.

(d) *Quarters for which special allotments will be made.* This special allotment procedure will be used only to make allotments through the fourth quarter of 1944.

Issued this 14th day of January 1944.

WAR PRODUCTION BOARD,

By J. JOSEPH WHELAN,

Recording Secretary.

[F. R. Doc. 44-767; Filed, January 14, 1944; 11:08 a. m.]

PART 3293—CHEMICALS

[Preference Rating Order P-89, as Amended Jan. 14, 1944]

MAINTENANCE, REPAIR AND OPERATING SUPPLIES

§ 3293.521 *Preference Rating Order P-89—(a) Definitions.* For the purpose of this order:

(1) "Producer" means any person operating a plant engaged in the production of chemicals or allied products, who shall have received a serial number from the War Production Board pursuant to paragraph (b).

(2) "Material" means any commodity, equipment, accessory, part, assembly, or product of any kind.

(3) "Controlled material" means controlled material as defined in CMP Regulation No. 1.

(4) "Maintenance" means the upkeep of a producer's property and equipment in sound working condition.

(5) "Repair" means the restoration of a producer's property and equipment to sound working condition when the same has been rendered unsafe or unfit for service by wear and tear, damage, failure of parts or the like.

(6) "Operating supplies" means any material which is essential to the operation of the producer's plant including, but not limited to, lubricants, catalysts, and small perishable tools: *Provided, however,* That the term operating supplies shall not include:

(i) Any material which is physically or chemically incorporated, at any stage of production, in whole or in part, into any material which the producer manufactures.

(ii) Any material which, at any stage of production, enters into the chemical reaction necessary to the manufacture, or is used in the purification (including, among other things, washes, solvents, extractants, filter aids, and the like) of any material which the producer manufactures.

(7) Material for maintenance, repair and operating supplies shall include:

(i) Material for the improvement of the producer's plant through the replacement of material in the existing installation, but only when such equipment is beyond economical repair.

(ii) Material for the maintenance and repair of pressure cylinders.

(iii) Material, such as hand tools, customarily purchased by the particular employer for sale to his employees for use only in his business, provided such material would constitute an operating supply under established accounting practice if issued to employees without charge.

(8) In addition, there may be included as maintenance, repair and operating supplies minor capital additions, the cost of which does not exceed \$500, excluding the producer's cost of labor, for any one complete addition which has not been subdivided for the purpose of coming within this definition: *Provided, however,* That such minor capital additions shall not include additions to, or expansions of, buildings or external structures other than processing equipment.

In the case of rearrangement of an existing installation, or in the case of adaptation of an existing installation to a different process, only the material added to the existing installation need be considered in computing the \$500.

(9) [Revoked September 28, 1943. Former paragraphs (a) (9) (i) through (ix) are covered by paragraph (g) (3),

and former paragraph (a) (9) (x) is covered by paragraph (a) (8) 1

(10) "Calendar quarter" means the quarterly period commencing on the first day of the first, fourth, seventh and tenth months of the calendar year and ending, respectively, on the last day of the third, sixth, ninth, and twelfth months of the calendar year, or the operator's customary three months accounting period closest to such quarter.

(11) "Unit cost" means the purchase price paid by the producer for material for maintenance, repair or operating supplies. Unit cost shall include labor cost, except cost of labor performed by employees of the producer, but shall not include transportation charges. An item for maintenance, repair or operating supplies shall not be subdivided into its component parts for the purpose of determining unit cost.

(b) *Application for assignment of serial number.* In order to become a producer subject to this order, any person operating a plant engaged in the production of chemicals or allied products, may apply by letter requesting assignment of a serial number under this order to specified plants. Such letter shall be addressed to War Production Board, Chemicals Division, Washington 25, D. C., Ref: P-89, and shall be accompanied by application on Form WPB-1765 (formerly PD-762).¹

(c) [Deleted Jan. 14, 1944]

(d) *Assignment of preference rating, allotment symbol and purchase order quota after January 1, 1944.* (1) The preference ratings and allotment symbols under this order shall be those specifically assigned by the War Production Board to each producer on Form WPB-1765 (formerly PD-762) or, in the case of producers registered prior to January 14, 1944, by letter; *Provided, however,* That no producer shall apply the preference rating or allotment symbol assigned under this paragraph to any order for fabricated parts or equipment having a unit cost of \$500 or more, or to purchase orders placed during any calendar quarter for an aggregate amount of aluminum in any of the forms or shapes constituting a controlled material in excess of 500 pounds. Application for preference ratings or allotment numbers or symbols for such orders may be made pursuant to paragraph (e).

(2) No producer shall place any purchase order for any material for maintenance, repair or operating supplies, whether or not obtained with preference ratings or allotment numbers or symbols derived from any source, which would cause the aggregate dollar value of purchase orders for materials for maintenance, repair and operating supplies placed by the producer during the calendar year 1944 to exceed the aggregate dollar value of purchase orders for

such materials placed by the producer during the calendar year 1943.

(e) *Special applications.* (1) If the producer is unable to secure delivery of materials for maintenance, repair or operating supplies (except aluminum controlled materials) because the preference ratings or allotment numbers or symbols assigned hereunder are insufficient, or because the producer's purchase order quota, or the unit cost limitation would be exceeded, the War Production Board may, upon written or telegraphic request, assign such special ratings or allotments or additions to the purchase order quota as it deems proper. Such letters or telegrams shall be addressed to the War Production Board, Chemicals Division, Washington 25, D. C., Ref: P-89, and shall contain the following information:

1. Plant location and P-89 serial number.
2. Material needed.
3. Weight of the material (specify separately weight of each controlled material required).
4. Value of the material.
5. Function of the material.
6. Amount of such material (or equivalent substitute) in inventory and, in the case of processing equipment, the number of units in service.
7. Name and address of supplier.
8. Purchase order number and date.
9. Product or products affected.
10. Percentage curtailment of production.
11. Nature of the emergency.
12. Requested rating and allotment.
13. Delivery date promised by supplier on basis of rating requested.

(2) Any producer requiring aluminum in any of the forms or shapes constituting a controlled material for essential maintenance, repair or operating supplies, in amounts in excess of 500 pounds during any one calendar quarter, shall apply by letter for an allotment for the amount in excess of 500 pounds to the War Production Board, Ref: Aluminum and Magnesium Division MRO, giving substantially the information described by paragraph (d) of Supplementary Order M-1-i.

(f) *Special preference ratings for containers.* Any producer may apply to the War Production Board, Chemicals Division, Washington 25, D. C., Ref: Chemicals Packaging Section, for special preference ratings under this order for containers and container parts, other than wooden or fibre containers as defined in Preference Rating Order P-140, or steel shipping drums as defined in Limitation Order L-197.

The application shall be filed by letter in duplicate or by telegram and shall specify:

1. Product to be packaged.
2. Plant location and P-89 serial number.
3. Number of containers requested.
4. Specification of container.
5. Other sizes of containers used to package the product.
6. Average number of containers shipped per month (of the size ordered).
7. What substitute containers have been used or could be used.
8. Inventory position of the requested container, including both new and used containers, and those out on deposit.
9. Name of container supplier and applicant's order number.

10. Total value.

11. Rating requested.

12. Delivery date promised by supplier on the basis of rating requested.

(g) *Procedure for applying preference ratings and allotment numbers or symbols to purchase orders.* (1) Each producer requiring delivery of material for maintenance, repair or operating supplies may obtain such material by endorsing on, or furnishing with, the delivery order a certification in substantially the following form, signed manually or as provided in Priorities Regulation No. 7:

----- (Preference rating) ----- (Allotment number or symbol)

The undersigned purchaser certifies, subject to the penalties of section 35 (A) of the United States Criminal Code, to the seller and to the War Production Board, that, to the best of his knowledge and belief, the undersigned is authorized under applicable War Production Board regulations or orders to place this delivery order, to receive the item(s) ordered for the purpose for which ordered, and to use any preference rating or allotment number or symbol which the undersigned has placed on this order.

-----	-----
(Name of purchaser)	(Address)
By -----	-----
(Signature and title of duly authorized officer)	(Date)

(2) An order bearing such certification shall be deemed an authorized controlled material order in the case of controlled materials, and in the case of all other materials shall have the same status as an order bearing an allotment number or symbol for the purposes of CMP Regulation No. 3 and all other applicable CMP regulations.

(3) No producer may apply the ratings assigned by or pursuant to this order to obtain delivery of the items set forth in Lists A and B attached to Priorities Regulation 3, as now or hereafter amended, except where the regulation permits the use of P-89 ratings for a particular item or where ratings are specifically assigned pursuant to paragraphs (e) or (f) of this order for specific kinds and quantities of List B items.

(h) *Inventory diversion.* No producer shall use material for maintenance, repair or operating supplies obtained with ratings or allotment numbers or symbols assigned by or pursuant to this order, except in that portion of his productive facilities to which a serial number under this order has been assigned.

(i) *Inventory restriction.* No producer shall accept delivery of any non-controlled material for maintenance, repair or operating supplies, whether or not obtained with preference ratings or allotment numbers or symbols assigned by or pursuant to this order, which would cause his inventory of such material for maintenance, repair, or operating supplies to exceed a minimum practicable working inventory. Inventories of controlled materials held by producers are subject to the provisions of CMP Regulation No. 2.

(j) *Applicability of regulations.* This order and all transactions affected hereby are subject to all applicable provi-

¹ Approved by the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

sions of War Production Board regulations, as amended from time to time; *Provided, however*, That no producer shall be subject to the provisions of CMP Regulations No. 5 or No. 5A, and no producer shall obtain any material under the provisions of either of said regulations. For the purpose of this order a producer remains a producer from the time a serial number is granted to him until the time when the serial number is expressly revoked by the War Production Board.

(k) *Miscellaneous provisions*—(1) *Records*. In addition to the records required to be kept under Priorities Regulation No. 1, a producer placing any purchase order or contract rated or assigned a CMP allotment number or symbol hereunder, shall retain, for a period of two years, for inspection by representatives of the War Production Board, endorsed copies of such purchase orders or contracts, whether accepted or rejected, segregated from all other purchase orders or contracts, or filed in such manner that they can be readily segregated for such inspection.

(2) *Reports*. The War Production Board may require each producer to file such other reports as may be prescribed, subject to the approval of the Bureau of the Budget pursuant to Federal Reports Act of 1942, and may issue special directions to any producer with respect to preparing and filing Form WPB-1765 (formerly PD-762).¹

(3) *Conservation and standardization*. Each producer shall use his best efforts to conserve materials by elimination, simplification or standardization of types, sizes or forms or by substitution of less critical for more critical materials, and shall cooperate in any program developed for such purpose by the War Production Board. The Conservation Division of the War Production Board issues, periodically, a publication showing the relative scarcity of materials, entitled, "Materials Substitutions and Supply".

(4) *Appeals*. Any appeal from the provisions of this order shall be made by filing a letter, in triplicate, referring to the particular provisions appealed from and stating fully the grounds of the appeal.

(5) *Violations*. Any person who willfully violates any provision of this order, or who, in connection with this order, willfully conceals a material fact, or furnishes false information to any department or agency of the United States is guilty of a crime, and upon conviction may be punished by fine or imprisonment. In addition, any such person may be prohibited from making or obtaining further deliveries of, or from processing or using material under priority control and may be deprived of priorities assistance.

(6) *Communications to War Production Board*. All reports required to be filed hereunder, and all communications concerning this order shall, unless otherwise directed, be addressed to the War

Production Board, Chemicals Division, Washington 25, D.C.; Ref.: P-89.

Issued this 14th day of January 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-769; Filed, January 14, 1944;
11:08 a. m.]

Chapter XI—Office of Price Administration

PART 1404—RATIONING OF FOOTWEAR

[RO 6A,¹ Amdt. 5]

MEN'S RUBBER BOOTS AND RUBBER WORK SHOES

A rationale accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Ration Order 6A is amended in the following respects:

1. Section 2.9 (a) (2) is amended by adding after the phrase "delivered as slop-chest supplies," the following: "ships' stores,"

2. Section 2.9 (a) (3) is amended by inserting the words "or ships' stores" between the word "slop-chest" and the word "deliveries", and by adding at the end of the second sentence the words "or ships' stores".

3. Section 3.4 is amended by adding the words "or ships' stores" after the words "slop-chest supplies".

This amendment shall become effective January 18, 1944.

(Pub. Law 671, 76th Cong. as amended by Pub. Laws 89, 421, and 507, 77th Cong.; WPB Dir. 1, 7 F.R. 562, Supp. Dir. 1-N, 7 F.R. 7730; E.O. 9250, 7 F.R. 7871)

Issued this 13th day of January 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-734; Filed, January 13, 1944;
3:22 p. m.]

PART 1306—IRON AND STEEL

[RPS 49,² Amdt. 20]

RESALE OF IRON OR STEEL PRODUCTS

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the division of the Federal Register.*

Revised Price Schedule 49 is amended in the following respects:

1. Section 1306.153 is amended to read as follows:

§ 1306.153 *Evasion*. The price limitations set forth in this price schedule shall not be evaded either by direct or

*Copies may be obtained from the Office of Price Administration.

¹ 8 F.R. 7384, 9458, 11688, 15704.

² 8 F.R. 4608, 4542, 7257, 7595, 7769, 7909, 9750, 9530 13553 13669.

indirect methods in connection with a purchase, sale, barter, delivery or transfer of iron or steel products alone or in conjunction with any other material, or by way of any commission, service, transportation, or other charge, or by way of discount, premium, or other privilege, or by way of tying agreement or other trade understanding, or otherwise. No person shall subdivide an order or shipment for the purpose of avoiding any of the requirements of this Revised Price Schedule 49.

2. Section 1306.154 is amended to read as follows:

§ 1306.154 *Records, reports and invoicing requirements*. (a) Every seller of iron or steel products shall keep for inspection by the Office of Price Administration complete and accurate records of:

(1) Each purchase, showing the date thereof; the name and address of the person from whom purchased; the point from which shipment was made; the destination; a complete description of the material furnished, including quantity, size, grade and quality, and any special operations performed for which the person from whom the material is purchased is making a charge; the price of the material and whether such price is a delivered or shipping point price, (if a shipping point price, a copy of the papers indicating all transportation charges actually paid); and, if the price is altered by the issuance of any credit or debit by the buyer or seller, a copy of papers indicating the amount and description of such alteration. On any material purchased which has already been put through "the operations commonly known as the warehousing of iron or steel products", a notation shall be made to that effect, including a statement as to the point at which such warehousing operation was last performed. Such record of purchases shall be kept for a period of not less than 2 years after such purchase by the seller.

(2) Each sale, showing the customer's name and order number; date of order; date of shipment; point from which shipment was made; destination; a complete description of the material furnished, including quantity, size, quality, and any special operations performed by the seller for which a charge is made; the price of the material and whether such price is a delivered or shipping point price; and, if the price is altered by the issuance of any credit or debit by the buyer or seller, a copy of papers indicating the amount and description of such alteration. If shipment is made by other than the seller invoicing the shipment, the name of such shipper should be shown. (If a seller's invoice bears the information outlined herein, a copy of such invoice will be considered sufficient for the purpose of this paragraph). Such record shall be kept for a period not less than one year after such sale by the seller.

(b) The record of sales covering any period shall be sent to the Office of Price Administration upon its request: *Provided*, That a request by the Office of Price Administration for the submission of such report shall be made not later than the fifteenth day of the month immediately following the sale. It is provided further, however, that this provision shall not in the conduct of a specific investigation in any way waive the right granted the Administrator to secure for inspection any records of a buyer or seller.

(c) Additional reporting, record keeping and invoicing requirements for certain products which are set forth in paragraphs (i) and (j) of § 1306.164.

(d) Every seller of iron or steel products shall furnish a buyer on each sale of iron or steel products an invoice describing the material and the terms of sale in such detail that the buyer can determine from such invoice whether the material is priced in accordance with the regulations. This shall include, but shall not be limited to, the quality, size, grade and quantity of material; the shipping point; the price per item; whether the shipment is prepaid or collect; and the name of carrier.

In addition, if the material has not been put through "the operations commonly known as the warehousing of iron or steel products", notation shall be made to that effect (i. e., direct mill shipment, etc.).

(e) *Filing prices.* On or before December 31, 1941, every seller of iron or steel products having annual gross sales of \$100,000 or more, even though iron and steel products comprise only a part of the total during the year ending December 31, 1941, shall file in duplicate, in affidavit form, with the Office of Price Administration, Washington, D. C., his prices circulated to his salesmen or customers in effect on April 16, 1941, or customarily quoted and charged on that date, including extra lists, deduction lists, charges, and discounts. Special prices or discounts given to any customers and classes of customers as of April 16, 1941, shall be filed. This includes prices or discounts to jobbers, dealers and large industrial or other special buyers. Every seller shall file individual price sheets for each warehouse or branch, showing city and country prices, wherever such exist, and he shall indicate the area or cities to which such prices apply. In the event that any prices so filed exceed the maximum prices established by Revised Price Schedule 49, the seller shall, after the effective date of Revised Price Schedule 49, eliminate this excess and charge a maximum price not in excess of the maximum prices established herein. Every seller shall state with regard to his April 16, 1941, price for each product, the range of sizes, types or cross-section covered by each price submitted; trade names, if any, and prices charged; prices for each base quantity; products sold in various quantity brackets, and prices for each bracket. If the person is a seller without prices as of April 16, 1941, (1)

because of establishment of business after April 16, 1941, or (2) because of introduction of a product not handled on or prior to April 16, 1941, he shall file a list of his inventory as of December 1, 1941, and prices he proposes to charge for such products. These prices shall not be in excess of the maximum as established by Revised Price Schedule 49. Additional filing requirements from Pacific Coast and Gulf Port sellers, and for carload business, are included in other sections of Revised Price Schedule 49. Persons affected by Revised Price Schedule 49 shall submit such other reports to the Office of Price Administration as it may from time to time require: *Provided*, That every seller of pipe and tubular products shall file with the Office of Price Administration, in duplicate, on or before September 15, 1942, his cutting and threading charges circulated to his salesmen or to his customers and in effect on April 16, 1941, or customarily quoted and charged as of that date.

3. In § 1306.156, a new paragraph (f) is added to read as follows:

(f) The Office of Price Administration may adjust any maximum price established in this regulation in any case in which it is shown:

(1) That as the result of maximum price increases, the seller's cost from his supplier has been raised so that there exists or threatens to exist in a particular locality a shortage in the supply of a commodity which aids directly in the war program or is essential to a standard of living consistent with the prosecution of the war; and

(2) That such local shortage will be substantially reduced or eliminated by adjusting the maximum prices of such seller for such commodity, and

(3) That such adjustment in prices will not create or tend to create a shortage in another locality and will effectuate the purposes of the Emergency Price Control Act of 1942, as amended.

4. In § 1306.157, paragraph (m) is revoked.

5. In § 1306.159, subparagraph (5) of paragraph (h) is revoked.

6. In § 1306.159, in the first sentence of subparagraph (4) of paragraph (i) the words included in the parenthesis reading "Carload freight shall be charged on shipments of 40,000 pounds and over" are deleted.

7. In § 1306.159, subparagraph (2) of paragraph (k) is amended to read as follows:

(2) *Carload prices for all products, except pipe and tubular goods; when the carload provisions shall apply.* When the aggregate weight of all items of iron or steel products, except pipe and tubular products, included in all orders of one day from one person for shipment at one time or at seller's convenience to one destination exceeds the minimum carload quantity established by the applicable rail tariff for shipment of such items between the points for which freight may be added by the provisions of the Sched-

ule (when there is more than one minimum carload weight involved in the freight rate calculation in the computation of a maximum delivered price, the greatest minimum carload weight required by applicable tariffs shall govern), the maximum price for these products, provided they have been put through the operations commonly known as the warehousing of iron or steel products, shall be computed as follows:

(i) *Standard wire nails, annealed smooth merchant quality wire, and galvanized smooth merchant quality wire.* On shipments within the city or free delivery area in which the material was last put through the operations commonly known as the warehousing of iron or steel products, the maximum delivered price for standard wire nails, annealed smooth merchant quality wire, and galvanized smooth merchant quality wire shall be the price for less-than-carload shipments as established in § 1306.159 (h) (1) and the extras set forth in (h) (3) of the same section for the shipping point, less a deduction at the rate of 15 cents per 100 pounds.

On shipments made from the city or free delivery area in which the material was last put through the operations commonly known as the warehousing of iron or steel products, the maximum delivered price for standard wire nails, annealed smooth merchant quality wire, and galvanized smooth merchant quality wire shall be the carload price established above for the shipping point, plus the carload rate of freight from such shipping point to destination.

(ii) *All types of galvanized roofing and siding, and merchant wire products including poultry netting, screen cloth, and hardware cloth.* The maximum delivered price for galvanized roofing and siding and merchant wire products including poultry netting, screen cloth, and hardware cloth, but not including standard wire nails, annealed smooth merchant quality wire, or galvanized smooth merchant quality wire, shall be the higher of the following two alternatives:

(a) The mill straight carload price to a jobber at the customer's destination, based on the governing basing point, plus a markup of 15 percent, or

(b) The mill straight carload price to a jobber at the city in which the material was last put through the operations commonly known as the warehousing of iron or steel products, based on the governing basing point, plus a markup of 15 percent, less a deduction at the rate of 20 cents per 100 pounds, plus the carload rate of freight from the shipping point to destination.

(iii) *Tool steel.* The maximum delivered price for Tool Steel shall be as established in § 1306.159 (j).

(iv) *Certain secondary or rejected iron or steel products and reusable iron or steel products.* The maximum delivered price for secondary or rejected iron or steel products for which prices are not established for less-than-carload quantities in § 1306.164, Appendix F, and re-

usable iron or steel products not governed by any other maximum price regulation shall be the mill price as established by Revised Price Schedule 6, *Provided*, That on application to the Office of Price Administration by a seller a maximum delivered price will be established by the Office of Price Administration. Such application should include:

1. The name of the seller and the place at which the material was last put through the operations commonly known as the warehousing of iron or steel products.

2. The name of the buyer and the destination.

3. A complete description of the material to be furnished, including quantity, size, whether sorted to specific sizes required by buyer, and a complete outline of the operations which have been performed or will need to be performed, if any, to put the material in usable condition and whether such operation, if any, will be done by the buyer, seller, or a third party.

(v) *Certain other secondary or rejected iron or steel products.* The maximum delivered price for secondary or rejected iron or steel products for which the less-than-carload prices are established by § 1306.164, Appendix F, shall be as set forth in such appendix, provided that the carload rate of freight shall be used rather than the less-than-carload rate of freight wherever less-than-carload freight is used in computing the maximum delivered price for less-than-carload quantities. In each instance where the upper limit of any quantity bracket in Appendix F is shown as being 39,999 pounds, for the purpose of this paragraph, this upper limit shall be disregarded.

(vi) *Certain prime iron or steel products.* The maximum delivered price for certain prime iron or steel products, the less-than-carload prices for which are established by § 1306.165, Appendix G, shall be as set forth in such appendix, *Provided*, That the carload rate of freight shall be used rather than the less-than-carload rate of freight wherever less-than-carload rate of freight is used in computing the maximum delivered price for less-than-carload quantities. In each instance where the upper limit of any quantity bracket in Appendix G is shown as being 39,999 pounds, for the purpose of this paragraph, this upper limit shall be disregarded.

(vii) *All other products for which a carload price is not established in subdivisions (i), (ii), (iii), (iv), (v) or (vi) above, or for which the carload price is not established by § 1306.159, Appendix A, subparagraph (4) of paragraph (k) (Pipe and tubular goods).* The maximum delivered price for all products for which a carload price is not established in subdivisions (i), (ii), (iii), (iv), (v) or (vi) above, or for which the carload price is not established by § 1306.159, Appendix A, subparagraph (4) of paragraph (k) (pipe and tubular goods) when customarily sold on a quantity plan on April 16, 1941 shall be the maximum delivered price for a 500-pound quantity, less a deduction at the rate of 35 cents per 100 pounds, provided that if the applicable price for any product shipped as established by any provision of this schedule is

lower than the price calculated above (500 pound quantity price, less a deduction at the rate of 35 cents per 100 pounds), such lower price shall then be the maximum price for such item: *Provided further*, That the maximum delivered price for any product item which was not customarily sold on a quantity plan on April 16, 1941, shall be the less-than-carload price established by this schedule for such product, less a deduction at the rate of 15 cents per 100 pounds.

8. In § 1306.159, subparagraph (3) of paragraph (k) is revoked.

9. In § 1306.159, subparagraph (4) of paragraph (k) is amended to read as follows:

(4) When the aggregate weight of all pipe and tubular goods included in all orders of one day from one person for shipment at one time or at seller's convenience to one destination, or when the aggregate weight of all items of pipe or tubular goods shipped in one day from one shipping point to one destination exceeds the minimum carload quantity established by the applicable rail tariff for shipment of such items from the governing basing point to the destination, the maximum price, provided such material has been put through the operations commonly known as the warehousing of iron or steel products, shall be computed as follows:

(i) *Standard pipe, seamless pipe, water well casing, large O. D. pipe, and line pipe.* For standard pipe, seamless pipe, water well casing, large O. D. pipe, and line pipe, the higher of the following two alternatives:

(a) The lowest price resulting from that combination of flat basing card discounts of the National Tube Company in effect on April 16, 1941 and published all-rail carload freight from basing point to destination, plus

(1) Twenty percent on standard pipe, reamed and drifted pipe and line pipe 6" and smaller, standard weight and lighter, both black and galvanized, and

(2) Twenty-five percent on all sizes of standard pipe and line pipe larger than 6", also all weights heavier than standard weight, both black and galvanized, and all sizes of water well casing and large O. D. pipe, or

(b) The lowest price resulting from that combination of flat basing card discounts of the National Tube Company in effect on April 16, 1941 and published all-rail carload freight from basing point to point from which shipment is being made by the seller, plus

(1) Twenty percent on standard pipe, reamed and drifted pipe and line pipe 6" and smaller, standard weight and lighter, both black and galvanized, and

(2) Twenty-five percent on all sizes of standard pipe and line pipe larger than 6", also all weights heavier than standard weight, both black and galvanized, and all sizes of water well casing and large O. D. pipe, less

(3) A deduction at the rate of 30 cents per 100 pounds, plus

(4) The carload rate of freight from the shipping point to destination.

(ii) *Wrought iron pipe.* For wrought iron pipe the higher of the following two alternatives:

(a) The price resulting from combination of resale discounts for sales from distributors' stocks as shown on A. M. Byers Company card in effect on April 16, 1941, and published all-rail carload freight from Pittsburgh to destination of customer, less 5 percent, or

(b) The price resulting from combination of resale discounts for sales from distributors' stocks as shown on A. M. Byers Company card in effect on April 16, 1941, and published all-rail carload freight from Pittsburgh to point from which shipment is being made by the seller, less 5 percent, plus the carload rate of freight from the shipping point to destination, less a deduction at the rate of 30 cents per 100 pounds.

(iii) *Oil country tubular goods.* For shipments of oil country casing, tubing, drill pipe, and drive pipe only: The lowest price resulting from that combination of basing point "out of field or distributors' stock" price as published by the Oil Well Supply Company, distributor for the National Tube Company, in effect on April 16, 1941, (Oil Country Tubular Goods Price List No. 24) and carload freight or transportation charges from the governing mill basing point to location of field or warehouse stock, as computed by the National Tube Company Freight Book 1 to which may be added the transportation charges from the shipping point to destination.

(iv) *Boiler and other pressure tubes.* For boiler and other pressure tubes the higher of the following two alternatives:

(a) The lowest price resulting from that combination of basing point prices in each quantity bracket of the National Tube Company price list for sales to consumer in effect on April 16, 1941, and the carload freight from basing point to destination, or

(b) The lowest price resulting from that combination of basing point prices in each quantity bracket of the National Tube Company price list for sales to consumer in effect on April 16, 1941, and the carload freight from basing point to the city from which shipment is to be made, less a deduction at the rate of 30 cents per 100 pounds, plus the carload rate of freight from the shipping point to destination: *Provided*, That maximum prices for merchant and other tubes shall be in the same ratio to the maximum prices established for seamless tubing as existed on April 16, 1941. In no case shall these prices exceed the maximum established here for seamless tubing: *Provided further*, That for boiler and other pressure tubes in the following sizes and gauges only:

1"-2¼" O. D. 11 gauge and heavier.
2½"-3" O. D. 10 gauge and heavier.
3¼"-3½" O. D. 9 gauge and heavier.
4"-4½" O. D. 8 gauge and heavier.
5"-5½" O. D. 7 gauge and heavier.
6" O. D. 5 gauge and heavier.
6¼"-6½" O. D. ½" and heavier.

On shipments from warehouse stock, the maximum delivered price shall be the higher of the following two alternatives:

(a) The lowest price resulting from that combination of mill carload basing point prices and carload freight from basing point to destination of customer, plus 30 percent, or

(b) The lowest price resulting from that combination of mill carload basing point prices and carload freight from basing point to the city from which shipment is to be made, plus 30 percent, less a deduction at the rate of 30 cents per 100 pounds, plus carload freight from the shipping point to destination.

(v) *Cold drawn seamless and other mechanical tubing.* For cold drawn seamless and other mechanical tubing the prices in effect and actually charged as of April 16, 1941 by the exclusive distributors of the National Tube Company, covering all sections of the country, shall be the maximum prices to be charged in areas served by each such distributor.

10. In § 1306.159, subparagraph (5) of paragraph (k) is amended to read as follows:

(5) When the aggregate weight of all items of iron or steel products, except pipe and tubular goods, included in shipments of one day from a shipping point to one destination exceeds the minimum carload quantity established by the applicable rail tariff for shipment from the shipping point to the destination, the carload rate of freight shall be used rather than the less-than-carload rate of freight in calculating:

(i) Freight from shipping point to destination when such freight is added in accordance with any provision listed below (maximum freight absorption or dislocated tonnage provision):

- Section 1306.159 (f) (1).
- Section 1306.165 (a) (8) (1).
- Section 1306.165 (b) (5) (ii), Table C-1, fifth paragraph.
- Section 1306.165 (b) (5) (ii), Table C-2, fourth paragraph.
- Section 1306.165 (b) (11) (ii), Table C-1, sixth paragraph.
- Section 1306.165 (b) (17) (ii), Table C-1, fifth paragraph.
- Section 1306.165 (b) (17) (ii), Table C-2, third paragraph.

(ii) Freight from the city from which shipment is made to destination, when such freight is added in accordance with any provision listed below (dislocated tonnage provision):

- Section 1306.164 (c) (2) (iii) (a).
- Section 1306.164 (d) (2) (iii) (a).

11. In § 1306.159, subparagraph (8) of paragraph (k) is revoked.

12. In § 1306.169, paragraph (c) is amended to read as follows:

(c) The maximum delivered price for concrete reinforcing bars sold by any person other than a producer as defined in Revised Price Schedule 6, or a fabricator as defined in Maximum Price Regulation 159, shall be the price established in § 1306.165, Appendix G, of this Revised Price Schedule 49.

This amendment shall become effective January 13, 1944.

No. 11—2

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 13th day of January 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-735; Filed, January 13, 1944;
3:22 p. m.]

PART 1364—FRESH, CURED AND CANNED MEAT AND FISH PRODUCTS

[MPR 507]

CEILING PRICES OF CERTAIN FRESH FISH AND SEAFOOD SOLD AT RETAIL

In the judgment of the Price Administrator, it is necessary, in order to effectuate the purposes of the Emergency Price Control Act of 1942, as amended, and Executive Orders Nos. 9250 and 9328, that maximum prices be established for the sale of certain fresh fish and seafood at retail.

So far as practicable, the Price Administrator has consulted and advised with representative members of the industry which will be affected by the regulation. In the judgment of the Price Administrator, prices established are generally fair and equitable and will effectuate the purposes of the Act. The prices established are not below the average retail prices of fresh fish and seafood in the year 1941.

Such specifications and standards as are used in this regulation were, prior to such use, in general use in the trade or industry affected, or insofar as they were not in general use, their use is essential to effectuate price control, and there is no effective alternative.

A statement of the considerations involved in the issuance of the regulation has been issued herewith and filed with the Division of the Federal Register.*

§ 1364.352 *Ceiling prices of certain fresh fish and seafood sold at retail.* Under the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Orders Nos. 9250 and 9328, Maximum Price Regulation No. 507 (Ceiling Prices of Certain Fresh Fish and Seafood Sold at Retail), which is annexed hereto and made a part hereof, is hereby issued.

AUTHORITY: § 1364.352 Issued under 56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681.

MAXIMUM PRICE REGULATION 507—CEILING PRICES OF CERTAIN FRESH FISH AND SEAFOOD SOLD AT RETAIL

ARTICLE I—PURPOSE AND SCOPE OF THE REGULATION

Sec.

1. What this regulation does.
2. What stores are covered by this regulation and how you find out what group you are in.
3. How and when you figure your ceiling prices for fresh fish and seafood.
4. Directions for figuring ceiling prices for fresh fish and seafood.

*Copies may be obtained from the Office of Price Administration.

Sec.

5. Prices which you must post.
6. Indirect price increases prohibited.
7. Prohibitions.
8. Sales slips and receipts.
9. Records.
10. Licensing.
11. Notice of dollars-and-cents ceiling prices.
12. Further provisions supplementing or explaining this regulation.

ARTICLE II—SPECIAL PRICING PROVISIONS

13. Additions for Groups 3 and 4 stores for delivery from warehouse to store.
14. Additions allowed for deliveries made by "fish stores".
15. How you figure your ceiling price for items which you "process".
16. How you figure your "net cost" for items which you import.

ARTICLE III—ADJUSTMENT PROVISIONS

17. How Groups 3 and 4 stores may, under certain conditions, use the Group 1 and 2 mark-ups.
18. Applications for adjustment.

ARTICLE IV—MISCELLANEOUS PROVISIONS

19. How you find the "annual gross sales" of your store.
20. How you determine your group in certain special cases.
21. Taxes.
22. Transfer of business and stock in trade.
23. Relation to other regulations.
24. Geographical applicability.
25. Definitions.

ARTICLE V—TABLES

26. Table of mark-ups for fresh fish and seafood (Table A).

ARTICLE I—PURPOSE AND SCOPE OF THE REGULATION

SECTION 1. *What this regulation does.* This regulation fixes new ceiling prices for domestic and imported fresh fish and seafood items listed in Table A, for all retail stores, retail route sellers and wagon retailers. These new ceiling prices are to be used instead of the ceiling prices figured under any other price regulation or order issued by the Office of Price Administration (hereinafter called OPA), except as otherwise provided in any order fixing dollars-and-cents ceiling prices which has been or which may be issued by the OPA pursuant to Revised General Order No. 51.¹

Sec. 2. *What stores are covered by this regulation and how you find out what group you are in—*(a) *What stores are covered.* Your store is covered by this regulation if you are a retailer who buys and resells food products, for the most part to ultimate consumers who are not commercial, industrial or institutional users. Ceiling prices for sales to hotels, boarding houses, restaurants, institutions and other eating places selling or furnishing meals are the ceiling prices fixed by Maximum Price Regulation No. 418.² Nevertheless, any person may, during any month, use the ceiling prices fixed by this regulation in selling to eating places, if 80% or more of his total sales

¹ 9 F.R. 408.

² 8 F.R. 9366, 10086, 10513, 10939, 11734, 11687, 12468, 12233, 12688, 13297, 13182, 13302, 14049, 14475, 14616, 15257, 15430, 16131, 16293, 16296.

of fresh fish and seafood during the previous calendar month were sales at retail to ultimate consumers. Retail route sellers and wagon retailers shall, for the purposes of this regulation, regard themselves as stores, and figure their ceiling prices as such.

(b) *What are Groups 1, 2, 3 and 4 stores.* For the purposes of this regulation, Groups 1, 2, 3 and 4 stores are defined as follows:

(1) *Group 1.* Your store is in Group 1 if it is an "independent" store with "annual gross sales" of less than \$50,000.

(2) *Group 2.* Your store is in Group 2 if it is an "independent" store with "annual gross sales" of \$50,000 or more, but less than \$250,000.

(3) *Group 3.* Your store is in Group 3 if its "annual gross sales" are less than \$250,000, and if it is not an "independent" store.

(4) *Group 4.* Your store is in Group 4 if its "annual gross sales" are \$250,000 or more.

(5) *Independent store.* Your store is an "independent" store if it is not one of four or more stores under one ownership whose combined "annual gross sales" are \$500,000 or more.

(c) *How to post a sign of the group your store is in.* At all times, you must have posted a sign showing the group your store is in under this regulation (reading "OPA-1", "OPA-2", "OPA-3" or "OPA-4", whichever applies to you), or you must have posted a sign which the OPA may furnish you. However, you may post the sign of another group, if you are permitted to do so under any order issued under Revised General Order No. 51. The sign must be posted so that it can be clearly seen by your customers.

SEC. 3. *How and when you figure your ceiling prices for fresh fish and seafood—*

(a) *General rule.* Your ceiling price for each item of fresh fish and seafood (that is, for each kind, size, and style of dressing or preparation), listed in Table A shall be the total of (1) the "net cost" of the largest delivery of the item received by you during the preceding seven-day period if you are a Group 1 or 2 store, or the weighted average "net cost" of all deliveries of the item during the preceding seven-day period if you are a Group 3 or 4 store, plus (2) the mark-up given your group for the item in Table A.

(b) *When you must figure your ceiling prices.* By the opening of business on January 27, 1944, you must have figured your ceiling price for each item of fresh fish and seafood listed in Table A which you have in stock at that time. These ceiling prices must be checked each week after January 27, 1944, and changed on Thursday of each week for any item, if your "net cost" of that item has changed in the preceding seven days. Never change your ceiling price on any day but Thursday.

For any item which you receive for the first time, or which you have not received during the preceding seven days, you must figure your ceiling price as soon as you receive it and before you make any sales, using the "net cost" of that first delivery. On each Thursday after that,

you must treat the item as you would any other item of fresh fish and seafood covered under this regulation.

Stores under one ownership pricing from a central point may refigure ceiling prices for items so priced, based on the "net cost" of deliveries received during the seven days preceding Tuesday of each week. These prices must not be put into effect until the following Thursday.

SEC. 4. *Directions for figuring ceiling prices for fresh fish and seafood—*(a) *"Net cost"*—(1) *Provisions applicable to all stores.* (i) Your "net cost" will be the amount you paid your supplier, less all discounts except the discount for prompt payment, plus all transportation charges you paid to transport the item to your usual receiving point, which may include costs for icing and refrigeration in transit, but which may not include costs for local trucking and local unloading.

(ii) Your "net cost" must be based on purchases delivered to your usual receiving point.

(iii) Your "net cost" must be figured on the basis of a per pound selling unit. Always figure "net cost" to three decimal places. Do not round out any fractions until you have added your mark-up.

(iv) You may never use as "net cost" the cost of a purchase from another retailer, and you must never figure your "net cost" on a purchase made at a cost higher than your supplier's ceiling price.

(2) *Provisions applicable to Groups 1 and 2 stores—*(i) *"Net cost" of largest delivery.* If you are a Group 1 or 2 store, to figure your ceiling price, you must first find the "net cost" of the largest delivery received by you of the item during the seven-day period before the Thursday for which you are figuring your price. If there are two or more of such largest deliveries of the same quantity, use the most recent of these deliveries.

(ii) *Use of weighted average "net cost" instead of "net cost" of largest delivery.* If you are a Group 1 or 2 store, you may use the weighted average "net cost" of all deliveries during the seven-day period, instead of using the "net cost" of the largest delivery during that period. If you figure "net cost" in this manner, however, you may not use the "net cost" of the largest delivery during the preceding seven-day period for any of the items listed in Table A.

(3) *Provisions applicable to Group 3 and 4 stores.* If you are a Group 3 or 4 store, your "net cost" will be the weighted average "net cost" of all deliveries of the item to you during the seven-day period before the Thursday for which you are figuring your price, except that stores under one ownership who price from a central point may use the weighted average "net cost" of deliveries received during the seven days preceding Tuesday of each week.

(b) *Mark-up.* Turn to Table A to find the mark-up for the item given your group of store.

(c) *Ceiling prices.* Your ceiling price will be the total of your dollars-and-cents mark-up added to your "net cost". Where this calculation results in a fraction of a cent, the figure must be reduced to the next lower cent if the fraction is less than $\frac{1}{2}$ cent, and may be increased

to the next higher cent, if the fraction is $\frac{1}{2}$ cent or more.

If you sell an item in a quantity other than the selling unit given in Table A, you must reduce or increase your price proportionately. If figuring a price for a quantity different from the "selling unit" results in a fraction of a cent, you may charge the next higher cent.

SEC. 5. *Prices which you must post—*

(a) *Ceiling prices.* At all times, you must have your ceiling price for each item covered by this regulation clearly shown at the place where you offer the item for sale. You do not have to describe this price with the words "ceiling price".

(b) *Selling prices.* If your selling price of any item is lower than your ceiling price you must also post this selling price directly below your ceiling price.

SEC. 6. *Indirect price increases prohibited.* You must not evade any of the provisions of this regulation or any order issued pursuant to it by any scheme or device. You must not, as a condition of selling any particular item, require a customer to buy anything else. Any such evasion is punishable as a violation of this regulation.

SEC. 7. *Prohibitions.* On and after January 27, 1944, if you sell or deliver, or offer to sell or deliver at a price higher than your ceiling price fixed by this regulation or any order issued pursuant to it, or if you otherwise violate any provisions of this regulation or any order issued pursuant to it, you are subject to the criminal penalties, civil enforcement actions, license suspension proceedings, and suits for treble damages provided for by the Emergency Price Control Act of 1942, as amended. Also, any person who, in the course of trade or business, buys from you at a price higher than your ceiling price, is subject to the criminal penalties and civil enforcement actions provided for by that act.

SEC. 8. *Sales slips and receipts.* If you have customarily given a purchaser a sales slip, receipt or similar evidence of purchase, you must continue to do so. Furthermore, regardless of your custom, you must give any customer who asks for it a receipt showing the date, your name and address, and each item sold and the price you charged for it.

SEC. 9. *Records.* After January 26, 1944, you must keep for one year after you receive them all your invoices, freight bills, and other records showing the price you paid and the date you received delivery of each item covered by this regulation.

You are required to show all your invoices on request of any OPA representative, and to furnish on request of any OPA representative a written record of your ceiling price in effect at any particular time or times for any or all of the items covered by this regulation. You must also keep available for inspection by any OPA representative the records you used in deciding what group your store is in.

Stores under one ownership pricing from a central point must also keep available at all times in each store a list

showing the current selling price, as set at the central point, of each item so priced. These price lists must be kept in each store for one year, or, in the alternative, must be kept in each store for thirty days, and thereafter for a period of eleven months in the warehouse from which the items are delivered to the store, and must be shown, on request, to any OPA representative.

Sec. 10. Licensing. The provisions of Licensing Order No. 1,⁸ licensing all persons who make sales under price control, are applicable to all sellers subject to this regulation. A seller's license may be suspended for violations of the license or of one or more applicable price schedules or regulations. A person whose license is suspended may not, during the period of suspension, make any sale for which his license has been suspended.

Sec. 11. Notice of dollars-and-cents ceiling prices. From time to time the OPA may, by order issued pursuant to Revised General Order No. 51, fix in your region or community, dollars-and-cents ceiling prices for some or all of the items under this regulation. When these dollars-and-cents prices are fixed, you may not thereafter sell at higher prices, and those orders may provide that such prices replace the ceiling prices which you have under this regulation. If such orders do not provide that they replace your prices under this regulation, you must continue to figure your prices under this regulation.

Sec. 12. Further provisions supplementing or explaining this regulation. From time to time, the Price Administrator may, by amendment, issue further provisions which will supplement the provisions of this regulation or explain the rights and duties of buyers and sellers under it. These further provisions will become part of this regulation and may be added as paragraphs to this section.

ARTICLE II—SPECIAL PRICING PROVISIONS

Sec. 13. Additions for Groups 3 and 4 stores for delivery from warehouse to store. If you are a Group 3 or 4 store, and your store is located at a distance of 125 miles or more from your warehouse, which is your usual receiving point, you may, in figuring your ceiling price for an item delivered from the warehouse to your store, add to your "net cost" for the item whichever of the following amounts applies:

(a) If the store is located at a distance of from 125 through 199 miles from such warehouse, you may add 1% of your "net cost".

(b) If the store is located at a distance of from 200 through 299 miles from such warehouse, you may add 2% of your "net cost".

(c) If the store is located at a distance of from 300 through 399 miles from such warehouse, you may add 3% of your "net cost".

(d) If the store is located at a distance of 400 miles or more from such warehouse, you may add 4% of your "net cost".

⁸ 8 F.R. 13240.

Sec. 14. Additions allowed for deliveries made by "fish stores". (a) If you are a "fish store" and you deliver to your customer's home or place of business any of the items covered by this regulation, you may add to the total value of the delivery, as a separate charge, whichever of the following amounts applies:

Value of delivery:	Additions allowed
\$0.00 to \$.99	no addition
\$1.00 to \$1.99	10¢
\$2.00 to \$2.49	15¢
\$2.50 to \$3.49	20¢
over \$3.50	25¢

(b) If you make such deliveries and add such charges, you are required to keep for one month a copy of each sales slip or invoice, itemizing clearly your prices for the items delivered and the amount of the delivery charges permitted under the provisions of this section.

Sec. 15. How you figure your ceiling price for items which you "process". (a) *Fresh fish.*—(1) "Net cost." If, prior to offering any item of fresh fish for sale, you "process" it by changing its form to either drawn, dressed, dressed and skinned, fillets, cuts or steaks (sliced), you will figure your "net cost" as though you had purchased the item already processed. Your "net cost" for any style of dressing is the price, fixed at the time you process it, for that style of dressing in Maximum Price Regulation No. 418, as listed in the table of prices covering your supplier's sale to you. If the item which you "process" is one which you purchased from a producer under Table A in Maximum Price Regulation No. 418, your "net cost" is the price, fixed at the time you process it, for that style of dressing in Table B of Maximum Price Regulation No. 418. If you received deliveries from more than one type of supplier, use the table price in Maximum Price Regulation No. 418 applicable to the type of supplier from whom you received the largest single delivery.

NOTE: This paragraph (a) applies only to processing which changes the item to one of the following major styles of dressing: drawn, dressed, dressed and skinned, fillets, cuts or steaks.

(2) *Mark-up.* (i) Your mark-up for any item which you process prior to offering for sale by changing the form to drawn, dressed, or dressed and skinned, shall be the mark-up given your group of store for the item in the table covering whole fish sold on gross weight basis and prepared to the customer's order.

(ii) Your mark-up for any item which you process prior to offering for sale by changing the form to fillets, cuts or steaks shall be the mark-up given your group of store for the item in the table covering fillets, cuts and steaks sold as purchased.

For example, if in the month of January you purchase haddock drawn from a cash and carry wholesaler (Table D) under Maximum Price Regulation No. 418, and if, prior to offering the haddock for sale, you change its form from drawn to dressed your "net cost" under this regulation is the Table D price listed in Maximum Price Regulation No. 418 for dressed haddock (plus transportation

and container allowances permitted in Maximum Price Regulation No. 418). To figure your ceiling price, add to your "net cost" the per pound mark-up given your group of store for haddock in the table covering whole fish sold on gross weight basis and prepared to the customer's order.

If instead of dressing the haddock, your fillet it, your "net cost" is the Table D price listed in Maximum Price Regulation No. 418 for haddock fillets, (plus transportation and container allowances permitted in Maximum Price Regulation No. 418). To figure your ceiling price, add to your "net cost" the per pound mark-up given your group of store for haddock in the table covering fillets, cuts and steaks sold as purchased.

(3) If, prior to offering any item of fresh fish for sale, you scale and clean it in such a manner that the form of the fish is not changed from one major style of dressing to another, and such scaling and cleaning is the only processing you perform, you may add ½ cent per pound to your "net cost" of the item figured under section 4.

(b) *Fresh seafood.*—(1) "Net cost." If, prior to offering any item of fresh seafood for sale, you "process" it by changing its form to either headless, headless and veined, peeled, or peeled and veined, you will figure your "net cost" as though you had purchased the item already processed. Your "net cost" for any style of dressing is the price, fixed at the time you process it, for that style of dressing in Maximum Price Regulation No. 418, as listed in the table of prices covering your supplier's sale to you. If the item which you "process" is one which you purchased from a producer under Table A in Maximum Price Regulation No. 418, your "net cost" is the price, fixed at the time you process it, for that style of dressing in Table B of Maximum Price Regulation No. 418. If you received deliveries from more than one type of supplier, use the table price in Maximum Price Regulation No. 418 applicable to the type of supplier from whom you received the largest single delivery.

(2) *Mark-up.* Your mark-up for any item of fresh seafood which you "process" prior to offering for sale shall be the mark-up given your group of store for the item in the table covering fresh seafood sold as purchased.

Sec. 16. How you figure your "net cost" for items which you import. If you import any item covered by this regulation, your "net cost" may not exceed the Table B price (plus transportation and container allowances) fixed in Maximum Price Regulation No. 418 for the item.

ARTICLE III—ADJUSTMENT PROVISIONS

Sec. 17. How Groups 3 and 4 stores may, under certain conditions, use the Group 1 and 2 mark-ups. (a) If you are a Group 3 or 4 store, and you have received permission to use the Group 1 mark-ups under Maximum Price Regulation No. 422,⁸ or the Group 1 and 2

⁸ 8 F.R. 10569, 10987, 12443, 12611, 13294, 15251, 14853, 15586, 15607.

mark-ups under Maximum Price Regulation No. 336^{*} or Maximum Price Regulation No. 355,^{*} you must figure your ceiling prices in accordance with the provisions of this regulation applicable to Groups 3 and 4 stores, except that you may use the Group 1 and 2 mark-ups under this regulation. You must then post the Group 1 sign.

(b) If you are a Group 3 or 4 "fish store" which meets the gross margin requirements specified in this section, and you do business in the manner outlined below, you may apply under paragraph (c) of this section to use the mark-ups provided for Group 1 and 2 stores:

(1) Your store generally offers to all its customers the services of taking orders by telephone, carrying monthly charge accounts, and providing delivery service;

(2) The general level of your prices for fish and seafood was, during September 1942, at least as high as the level maintained by Groups 1 and 2 stores, and was generally higher than that maintained by Groups 3 and 4 stores for such items in your community; and

(3) The total gross margin in your fiscal year 1941 was more than 25% on all sales and also, if you are not an "independent" store, more than 25% on the combined sales of the items in all the stores in your organization. If you were not in business in 1941, use your most recent fiscal year (or fiscal period, if not in business a full fiscal year).

(c) Your application must be filed in duplicate on or before March 1, 1944, with your nearest district OPA office on a form which you may obtain from that office. You may combine on one form the applications of more than one of your stores. If your application is finally approved, OPA will tell you when to begin using the Group 1 and 2 mark-ups, and from such time on you shall post a sign in your store designating it as a "Group 1" store and it shall be considered a Group 1 store for all orders issued under Revised General Order No. 51.

SEC. 18. *Applications for adjustment.* Any regional office of the OPA, or such offices as may be authorized by order issued by the appropriate Regional Office, may act on all applications for adjustment under the provisions of this regulation. Applications for adjustment are governed by Revised Procedural Regulation No. 1.

ARTICLE IV—MISCELLANEOUS PROVISIONS

SEC. 19. *How you find the "annual gross sales" of your store.* (a) To find your "annual gross sales", take your total sales for the calendar year 1942. Include all sales as shown on your books, except sales made by a restaurant in conjunction with your store. You can use your Federal Income Tax Return to get your gross sales for all or part of the calendar year 1942 which is covered by such return. If you own more than one store, figure the sales for each store

separately, treating each as a separate retailer.

(b) If you were not in business during the entire year 1942, you must divide your total sales from the time you began operation up to January 26, 1944, by the number of weeks you were in business. This will get you your weekly average sales. Multiply the figure by 52, and the result is your "annual gross sales".

SEC. 20. *How you determine your group in certain special cases—*(a) *Stores in which more than one retailer operates.* If you sell fresh fish and seafood in a retail store in which there are other food retailers, none of whom sells fish and seafood, you must find your group by taking the combined "annual gross sales" of all the food retailers in that store.

(b) *New stores.* If you open a retail store after January 26, 1944, you may consider yourself a Group 1 store if you are an "independent" store, or a Group 3 store if you are not an "independent" store. However, after you have been in business for three months, you must determine again what group your store is in. To do this, take your total sales for the three-month period and multiply by four. Use the result as your "annual gross sales" in determining the group in which your store belongs.

If you find that your store should now be in another group, you may continue to use the Group 1 or Group 3 mark-ups until the second Thursday following the end of the three-month period, by which time you must have refigured all your ceiling prices using the mark-ups for your new group.

If, by reason of the new store, you now are one of four or more stores under one ownership, you must, at the end of the three-month period, refigure the combined "annual gross sales" for all of your stores. If the combined "annual gross sales" are \$500,000 or more, all of your stores must then be considered as Group 3 or 4 stores. You may continue to use the existing ceiling prices in each store until the second Thursday following the end of the three-month period, by which time you must have refigured all of your ceiling prices in each store, using the mark-ups for its proper group.

(c) *Discontinuance of stores.* (1) If you are not an "independent" store and you close one or more of your stores, so that you now have less than four stores under one ownership, you may find your group for each of the remaining stores by determining the "annual gross sales" under section 19, treating each store as an "independent" store.

(2) If you are not an "independent" store, and you close one or more of your stores, but four or more stores continue under one ownership, you may figure the combined "annual gross sales" under section 19 for those remaining in operation. If the combined "annual gross sales" are not \$500,000 or more, you may then determine your group for each store, treating each store as an "independent" store.

(3) If you find that any store is now in another group, you may refigure all of your ceiling prices for that store be-

fore the opening of business on any Thursday.

SEC. 21. *Taxes.* You may collect, in addition to your ceiling price, any tax upon or incident to a sale at retail of items covered by this regulation, if you state the tax separately, and if the statute or ordinance does not prohibit sellers from stating and collecting the tax separately from the price.

SEC. 22. *Transfer of business and stock in trade.* If, after January 26, 1944, you acquire in any way the business, assets, and stock in trade of any seller at retail subject to this regulation, and you carry on the business or continue to deal in the same type of food products in that same store, your ceiling prices shall be the same as those of the former owner, as if no transfer had taken place. You must keep all the records needed to verify your ceiling prices. The former owner must either preserve and make available to you, or give you, all the records of his transactions before you acquired the store, which you need to comply with the record provisions of this regulation.

If the transfer changes the business from one group of retail stores to another, your ceiling prices shall be those for the group of retailer to which you belong under this regulation.

SEC. 23. *Relation to other regulations.* The provisions of this Maximum Price Regulation No. 507, except as otherwise provided in this regulation, shall, on and after January 27, 1944, supersede the provisions of Maximum Price Regulation No. 439,^{*} and any other applicable price regulation or order issued by the OPA, except any order issued pursuant to Revised General Order No. 51, with respect to sales by retail stores, retail route sellers and wagon retailers of any kind of fish or seafood for which ceiling prices are established by this regulation.

SEC. 24. *Geographical applicability.* The provisions of this regulation shall apply to the 48 states of the United States and to the District of Columbia.

SEC. 25. *Definitions.* (a) (1) "Sale at retail" shall mean a sale to an ultimate consumer other than a commercial, industrial or institutional user.

(2) "Fish store" is a store at least 90% of whose sales are sales of fish or seafood to ultimate consumers other than commercial, industrial or institutional users.

(3) "Delivery" of an item covered by this regulation shall be considered to have occurred when the item has been received by you at your usual receiving point.

(4) "Usual receiving point" will be either your retail store or your warehouse from which you supply your retail stores, depending upon where you normally receive the particular item you are pricing under this regulation.

(5) "Item" is each kind, size, and style of dressing or preparation of fresh fish and seafood listed in Table A, both domestic and imported, but shall not include any frozen fish or frozen seafood. You must figure a separate ceiling price for each item you sell.

(6) "Process" shall mean any operation by a retailer prior to offering the

^{*} 8 F.R. 2859, 4253, 5317, 5634, 6212, 7682, 8944, 9366, 12480, 13181, 15670.

^{*} 8 F.R. 4423, 4922, 6214, 6428, 7199, 7827, 8155, 8945, 9366, 11297, 12237, 12811, 14738.

^{*} 8 F.R. 10267, 10732, 11686, 12693, 13920, 14986.

item for sale, whereby the form of the fish is changed to either drawn, dressed, dressed and skinned, fillets, cuts or steaks, or the form of seafood is changed to headless, headless and veined, peeled, or peeled and veined.

(7) "Prepared to the customer's order" shall mean any customary operation by a retailer, within the limitations of his mechanical facilities, such as cleaning, running the fins, trimming, scaling, gutting, heading, slicing, or filleting, after offering the item for sale. Where the customer requests whole fish in the form in which it is offered, the sale shall likewise be regarded as "prepared to the customer's order."

(8) "Whole fish" shall mean any fish item round, drawn, dressed, and dressed and skinned, but shall not include fillets, cuts and steaks.

(9) "Major styles of dressing" shall mean round, drawn, dressed, dressed and skinned, fillets, cuts and steaks.

(b) Unless the context otherwise requires, the definitions in Maximum Price Regulation No. 418, as amended, and in section 302 of the Emergency Price Control Act of 1942, as amended, shall apply to the terms used herein.

ARTICLE V—TABLES

SEC. 26. Table of mark-ups for fresh fish and seafood (Table A).

CENTS-PER-POUND MARK-UPS OVER "NET COST" ALLOWED TO RETAILERS FOR FRESH FISH AND SEAFOOD COVERED BY THIS REGULATION, BY SPECIES, FOR THE MONTHS OF JANUARY, FEBRUARY, AND MARCH

I. FRESH FISH KIND OF FISH	Whole fish, sold on gross weight basis and prepared to customer's order ¹		Fillets, cuts and steaks sold as purchased ¹	
	Groups I and II	Groups III and IV	Groups I and II	Groups III and IV
	Cents per pound	Cents per pound	Cents per pound	Cents per pound
1. Alewives.....	7	5		9
2. Blackback.....	9	7	10	7
3. Codfish, Atlantic.....	9	7	10	8
4. Cusk.....	9	7	10	8
5. Dab, Sea.....	8	6	10	8
6. Haddock.....	9	7	10	8
7. Hake.....	9	7	10	7
8. Hake, Mud.....	8	6		
9. Herring, Atlantic.....	7	5		7
10. Pollock.....	8	6	10	7
11. Rosefish.....	8	6	11	11
12. Sole, Grey.....	9	7	12	12
13. Sole, Lemon.....	9	7	11	10
14. Swordfish.....	8	6	9	7
15. Whiting.....	10	9	10	9
16. Wolfish.....	8	6	10	9
17. Yellowtail, Atlantic.....	9	7	9	7
18. Bonita.....	9	7	10	7
19. Cod, True, Pacific.....	8	6	10	7
20. Flounder, Pacific.....	10	8	10	7
21. Halibut.....	9	7	10	8
22. Ling Cod, Pacific.....	9	7	10	7
23. Rock (Red) Cod, Pacific.....	9	7	9	7
24. Sablefish.....	10	8	10	8
25. Salmon, Chinook, King.....	10	8	10	7
26. Salmon, Silver.....	9	7	9	7
27. Salmon, Pink.....	9	7	9	7
28. Salmon, Fall.....	9	7	10	8
29. Sauter, Sand Pike.....	9	7		
30. Smelt, Silver, Pacific.....	9	7	10	7
31. Sole, Dover.....	9	7	10	7
32. Sole, English.....	9	7	10	8
33. Sole, Petrale.....	9	7	10	7
34. Sole, Sand.....	9	7	10	7
35. Sole, Turbot.....	9	7	11	9
36. Tuna, Albacore.....			10	7
37. Tuna, Bluefin.....			10	7
38. Tuna, Skipjack, Striped.....			10	7
39. Tuna, Yellowfin.....			10	7
40. Yellowtail, Pacific.....	9	7	9	7
41. Lake Trout, Canadian.....	10	8		
42. Pickerel, Canadian.....	9	8		
43. Whitefish, Canadian.....	11	9		
44. Yellow Pike, Canadian.....	11	9	11	11
45. Yellow Perch.....	9	7		

Fresh seafood sold as purchased¹

II. FRESH SEAFOOD KIND OF SEAFOOD	Groups I and II	Groups III and IV
	Cents per pound	Cents per pound
1. Scallops, Bay.....	14	13
2. Scallops, Sea.....	12	11
3. Shrimp and Prawn.....	10	8

¹ Retailers processing items prior to offering for sale at retail, who price in accordance with section 15 (a) (2) or section 15 (b) (2) shall use these tables.

This regulation shall become effective on the 27th day of January 1944.

NOTE: The record keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with Federal Reports Act of 1942.

Issued this 13th day of January 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-736; Filed, January 13, 1944;
3:22 p. m.]

PART 1351—FOOD AND FOOD PRODUCTS

[MPR 329, Amdt. 17]

PURCHASES OF MILK FROM PRODUCERS FOR RESALE AS FLUID MILK

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 1351.415 (b) is amended to read as follows:

(b) (1) If a purchaser did not purchase "milk" from a particular producer during January 1943, but subsequently purchases from that producer, the maximum price that he may pay shall be the highest price which any purchaser paid that producer during January 1943 (or the price subsequently established in accordance with the provisions of this regulation for such purchaser who bought from that producer during January 1943), subject to the same price differentials for grade and quality which were in effect for that producer during that month, or the price computed as follows, whichever is higher:

The highest price paid to that producer by any purchaser for "milk" delivered during March 1942, subject to the same price differentials for grade and quality which were in effect for that producer during that month, plus 10¢ per cwt. for each full ¼¢ increase over March 1942 in the purchaser's maximum resale price for standard fluid sweet milk in quart container sizes. The "increase" in resale prices means the increase since March 1942 in the highest price, before discounts and allowances, charged any purchaser either at retail or at wholesale. He shall use the rate of increase at retail in calculating the increased buying prices to producers if retail sales made up the greater part of his total volume during January 1943; if not, he shall use the rate of increase applicable to wholesale sales.

(2) If a maximum price for a purchaser of "milk" from producers cannot be determined under paragraph (a) or paragraph (b) (1) of this section, the maximum price shall be determined as follows:

In the case of a producer who did not sell "milk" (for resale as fluid milk) dur-

*Copies may be obtained from the Office of Price Administration.

¹ 8 F.R. 2038, 2874, 3252, 3621, 4726, 5933, 5907, 6737, 8063, 9884, 10731, 13721.

ing January 1943, the maximum price shall be determined by the Atlanta Regional Office of the Office of Price Administration upon application by the purchaser.

The Atlanta Regional Office of the Office of Price Administration is authorized to establish maximum prices on applications filed under paragraph (b) (2) and such maximum prices shall be subject to modification or revocation at any time.

NOTE: In the case of a purchaser who was not engaged in the business of purchasing "milk" (for resale as fluid milk) during January 1943, and subsequently engages in such business without purchasing an existing establishment, the maximum price at which he may purchase "milk" from producers will be determined under paragraph (b) (1) above in the case of purchases from producers engaged in production for fluid milk purposes during January 1943, and will be determined under paragraph (b) (2) above in the case of purchases from producers not so engaged.

This amendment shall become effective January 20, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 14th day of January 1944.

CHESTER BOWLES,
Administrator.

Approved: January 6, 1944.

ASHLEY SELLERS,
Assistant War Food Administrator.

[F. R. Doc. 44-770; Filed, January 14, 1944;
11:39 a. m.]

PART 1429—POULTRY AND EGGS

[RMFR 269, Corr. to Amdt. 22]

POULTRY

The designation of § 1429.27 is corrected to read § 1429.28.

This correction is effective as of December 31, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 14th day of January 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-772; Filed, January 14, 1944;
11:40 a. m.]

PART 1439—UNPROCESSED AGRICULTURAL COMMODITIES

[TMFR 34, Correction]

SWEET POTATOES

Temporary Maximum Price Regulation 34 is corrected in the following manner:

¹ 7 F.R. 10708, 10864, 11118; 8 F.R. 567, 856, 878, 2289, 3316, 3419, 3792, 6736, 9299, 10940, 11691, 13302, 13303, 13813, 14016, 15258, 14854, 15190.

² 8 F.R. 17306.

In section 6 (a) the first sentence is corrected to read in part as follows: "On and after December 22, 1943, regardless of any contract or other obligation, no person * * *"

This correction shall be effective as of December 22, 1943.

Issued this 14th day of January 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-773; Filed, January 14, 1944;
11:39 a. m.]

PART 1499—COMMODITIES AND SERVICES

[Rev. SR 14 to GMPR, Amdt. 83]

BOILED-DOWN COTTONSEED OIL SOAP STOCK

A statement of the considerations involved in the issuance of this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.*

Section 4.19 is added to read as follows:

SEC. 4.19 *Boiled-down cottonseed oil soap stock*—Basis 65% T. F. A.—(a) *Maximum prices for sales in car lots.* Notwithstanding any other provision of this General Maximum Price Regulation, the maximum prices for all sales of boiled-down cottonseed oil soap stock—basis 65% T. F. A. in car lots, shall be the maximum delivered prices specified below:

(1) *Soapstock produced in Texas.*

(i) For deliveries within Texas—6.25¢ per pound.

(ii) For deliveries to any point outside Texas, except the states mentioned in (iii) below—6.5¢ per pound.

(iii) For deliveries to any point in Washington, Oregon, California, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Maryland, Delaware, District of Columbia, Virginia and West Virginia—6.625¢ per pound.

(2) *Soapstock produced in California.*

(i) For deliveries to any point in California—6.25¢ per pound.

(ii) For deliveries in any state west of the Mississippi River, except California—6.5¢ per pound.

(iii) For deliveries to any state east of the Mississippi River—6.625¢ per pound.

(b) *Other charges.* The above maximum delivered prices shall not be increased by any charges for containers or brokers' fees.

This amendment shall become effective January 20, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 14th day of January 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-771; Filed, January 14, 1944;
11:39 a. m.]

*Copies may be obtained from the Office of Price Administration.

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

PART 1—RULES OF PRACTICE AND PROCEDURE

ASSIGNMENT OR TRANSFER OF CONTROL

The Commission on January 11, 1944, effective immediately, amended § 1.364 of its rules to read as follows:

§ 1.364 *Assignment or transfer of control*—(a) *General*—(1) *Voluntary.* Application for consent to voluntary assignment of a construction permit or license or for consent to voluntary transfer of control of a corporation holding a construction permit or license shall be filed with the Commission at least 60 days prior to the contemplated effective date of assignment or transfer of control.

(2) *Involuntary.* In the event of the death or legal disability of a permittee or licensee, or a member of a partnership, or a person directly or indirectly in control of a corporation, which is a permittee or licensee:

(i) The Commission shall be notified in writing promptly of the occurrence of such death or legal disability, and

(ii) Within thirty days after the occurrence of such death or legal disability (except in the case of a ship or amateur station), application shall be filed for consent to involuntary assignment of such permit or license or for involuntary transfer of control of such corporation to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved. In the case of ship and amateur stations, involuntary assignment of licenses will not be made; such licenses shall be surrendered for cancellation upon the death or legal disability of the licensee.

(b) *Broadcast.* With each such application, involving any standard broadcast station construction permit or license, there shall be submitted under oath or affirmation all information required to be disclosed by the application forms prescribed by the Commission, together with such other information under oath or affirmation as the Commission may require.

(c) *Other than broadcast.* In all classes of applications for consent to assignment of construction permit or license or for consent to transfer of control of a corporation holding a construction permit or license, other than those prescribed in paragraph (b), the Commission may require the furnishing of such information as in its discretion is deemed necessary.

(Sec. 4 (i), 48 Stat. 1068; 47 U.S.C. 154 (i)—sec. 310 (b), 48 Stat. 1086; 47 U.S.C. 310 (b))

By the Commission.

[SEAL]

T. J. SLOWIE,
Secretary.

[F. R. Doc. 44-761; Filed, January 14, 1944;
11:09 a. m.]

Notices

FEDERAL TRADE COMMISSION.

[Docket No. 5115]

GENERAL BAKING COMPANY

NOTICE OF HEARING

The Federal Trade Commission having reason to believe that the party respondent named in the caption hereof and hereinafter more particularly designated and described has since June 19, 1936, violated and is now violating the provisions of subsection (d) of section 2 of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936 (U.S.C. Title 15, sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. The respondent, General Baking Company, is a corporation organized and existing under and by virtue of the laws of the State of New York, with the principal office and place of business located at 420 Lexington Avenue, New York, N. Y.

PAR. 2. Respondent corporation is now and has been since June 19, 1936, engaged in the business of processing and manufacturing, offering for sale, selling, and distributing bread, pastries, and allied products, including its bakery bread which it distributes in various sections of the United States under the name of "Bond Bread". Respondent sells and distributes said products in commerce between and among the various states of the United States and the District of Columbia, and preliminary to or as a result of such sales, causes said products to be shipped and transported from the place of origin of the shipment to the purchasers thereof who are located in states of the United States other than the state of origin of the shipment. There is and has been at all times herein mentioned a continuous current of trade and commerce in said products across state lines between respondent's factories and the purchasers of said products. Said products are sold and distributed for use, consumption, and resale within the various states of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, respondent is now and during the time herein mentioned has been in substantial competition with other corporations, individuals, partnerships, and firms engaged in the business of manufacturing, selling, and distributing bread, pastry, and allied products in commerce between and among the various states of the United States and the District of Columbia.

PAR. 4. Respondent corporation in the course and conduct of its business and in the course of such commerce is now and has been subsequent to June 19, 1936, engaged in manufacturing and processing bakery products for distribution and sale and in selling such products to customers who are competitively engaged with each other in handling, offering for sale, and sale of such bakery products

to consumers and to others for resale to consumers. The respondent corporation has contracted to pay and has paid to a limited number of its customers (hereinafter called preferred customers) located in Washington, D. C.; Philadelphia, Pennsylvania; Norfolk, Virginia; Louisville, Kentucky; Indianapolis, Indiana; Columbus, Ohio and elsewhere varying sums of money in consideration of and as compensation for advertising services and facilities contracted to be furnished and furnished by said preferred customers in connection with the handling, offering for sale and sale of said products. The respondent has approximately thirty-five of such preferred customers to whom it grants and allows such advertising allowances which vary in amounts from a minimum of fifty cents a week to a maximum of five hundred and twenty-five dollars per month. The respondent has made and makes such payments as compensation for advertising services and facilities with the understanding and agreement that the preferred customers will advertise respondent's products in newspapers and by handbills and bulletins and otherwise. The respondent has not made such payments of advertising allowances available on proportionally equal terms to other customers who compete with said preferred customers in the distribution of its products.

PAR. 5. Such acts of respondent since June 19, 1936, in interstate commerce in the manner and form aforesaid of paying and contracting to pay such preferred customers for services and facilities furnished by and through them in connection with the handling, offering for sale and sale of respondent's products without making such payments available on proportionally equal terms to all other competing customers is in violation of the provisions of section 2 (d) of the Clayton Act as amended by the Robinson-Patman Act.

Wherefore, the premises considered, the Federal Trade Commission on this 11th day of January, A. D. 1944, issues its complaint against said respondent.

Notice is hereby given you, General Baking Company, respondent herein, that the 18th day of February A. D., 1944, at 2 o'clock in the afternoon, is hereby fixed as the time, and the offices of the Federal Trade Commission in the City of Washington, D. C., as the place, when and where a hearing will be had on the charges set forth in this complaint, at which time and place you will have the right, under said act, to appear and show cause why an order should not be entered by said Commission requiring you to cease and desist from the violations of the law charged in the complaint.

You are notified and required, on or before the twentieth day after service upon you of this complaint, to file with the Commission an answer to the complaint. If answer is filed and if your appearance at the place and on the date above stated be not required, due notice to that effect will be given you. The rules of practice adopted by the Commission with respect to answers or failure to ap-

pear or answer (Rule IX) provide as follows:

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the Complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Commission, without further evidence, or other intervening procedure, to find such facts to be true.

Contemporaneously with the filing of such answer the respondent may give notice in writing that he desires to be heard on the question as to whether the admitted facts constitute the violation of law charged in the complaint. Pursuant to such notice, the respondent may file a brief, directed solely to that question, in accordance with Rule XXIII.

In witness whereof, the Federal Trade Commission has caused this, its complaint, to be signed by its Secretary, and its official seal to be hereto affixed, at Washington, D. C., this 11th day of January, A. D. 1944.

By the Commission.

[SEAL]

A. N. Ross,
Acting Secretary.

[F. R. Doc. 44-758; Filed, January 14, 1944; 10:39 a. m.]

INTERSTATE COMMERCE COMMISSION.

[S. O. 70-A, Special Permit 11]

COMMON CARRIER BY RAILROAD

RECONSIGNMENT OF ORANGES

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph (§ 95.35, 8 F.R. 14624) of Service Order No. 70-A of October 22, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 70-A insofar as it applies to the reconsignment at Detroit, Michigan, not later than January 15, 1944, by Associated Fruit Distributors of California, Los Angeles, California, of RD 18452, PFE 45295, and RD 38512, oranges, to unknown destinations.

The waybills shall show reference to this special permit.

A copy of this permit has been served upon the Association of American Railroads, Car Service Division, as agent of

the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 10th day of January 1944.

HOMER C. KING,
Director.

[F. R. Doc. 44-766; Filed, January 14, 1944;
11:04 a. m.]

[S. O. 164, Gen. Permit 8]

COMMON CARRIER BY RAILROAD
REFRIGERATION OF CITRUS FRUITS

Pursuant to the authority vested in me by paragraph (g) of the first ordering paragraph (§ 95.323 8 F.R. 15491) of Service Order No. 164 of November 10, 1943, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To reice once, at the first regular icing station, with enough ice to fill to capacity bunkers of refrigerator cars loaded with citrus fruits originating in Arizona, California, and Texas.

The waybills shall show reference to this general permit.

A copy of this permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 10th day of January 1944, to become effective at 12:01 a. m., January 11, 1944.

HOMER C. KING,
Director.

[F. R. Doc. 44-765; Filed, January 14, 1944;
11:04 a. m.]

[S. O. 178, Gen. Permit 1]

COMMON CARRIER BY RAILROAD
TRANSPORTATION OF EMPTY BEER CONTAINERS
IN CERTAIN REFRIGERATOR CARS

Pursuant to the authority vested in me by paragraph (e) of the first ordering paragraph (§ 95.328, 9 F.R. 542) of Service Order No. 178 of January 11, 1944, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 178 insofar as it applies to the furnishing or supplying of a refrigerator car or cars other than the RS TYPE refrigerator cars for loading with empty beer containers, or transporting or moving a refrigerator car or cars other than the RS TYPE refrigerator cars loaded with empty beer containers, providing the waybills shall show reference to this general permit.

This permit shall become effective at 12:01 a. m., January 13, 1944.

A copy of this permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 12th day of January 1944.

HOMER C. KING,
Director.

[F. R. Doc. 44-762; Filed, January 14, 1944;
11:04 a. m.]

[S. O. 178, Gen. Permit 2]

COMMON CARRIERS BY RAILROAD
TRANSPORTATION OF CERTAIN FOODSTUFFS IN
REFRIGERATOR CARS

Pursuant to the authority vested in me by paragraph (e) of the first ordering paragraph (§ 95.328, 9 F.R. 542) of Service Order No. 178 of January 11, 1944, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 178 insofar as it applies to the furnishing or supplying of a refrigerator car or cars for loading with lard, lard compounds, lard substitutes, rendered pork fats, vegetable oil shortening, cooking and salad oil, animal tallow, dried fish, and dried or powdered skim milk, and concentrated citrus juice, destined to points in the States of Oregon, Washington, California, New Mexico, Arizona, Nevada, Idaho, and Montana, when originating at points in States east thereof, or transporting or moving a refrigerator car loaded with lard, lard compounds, lard substitutes, rendered pork fats, vegetable oil shortening, cooking and salad oil, animal tallow, dried fish, and dried or powdered skim milk, and concentrated citrus juice, destined to points in the States of Oregon, Washington, California, New Mexico, Arizona, Nevada, Idaho, and Montana, when originating at points in States east thereof, providing the waybills shall show reference to this general permit.

This permit shall become effective at 12:01 a. m., January 13, 1944.

A copy of this general permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 12th day of January 1944.

HOMER C. KING,
Director.

[F. R. Doc. 44-763; Filed, January 14, 1944;
11:04 a. m.]

[S. O. 178, Gen. Permit 3]

COMMON CARRIER BY RAILROAD
TRANSPORTATION OF CERTAIN FOODSTUFFS IN
REFRIGERATOR CARS

Pursuant to the authority vested in me by paragraph (e) of the first ordering paragraph (§ 95.328, 9 F.R. 542) of Service Order No. 178 of January 11, 1944, permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 178 insofar as it applies to the furnishing or supplying of a standard or regular service (not giant type) refrigerator car or cars of the Pacific Fruit Express Company, to be loaded with lard, lard compounds, lard substitutes, rendered pork fats, vegetable oil shortening, cooking and salad oil, animal tallow, dried fish, dried or powdered skim milk, concentrated citrus juice or empty beer containers for movement to destinations located in Mexico, or the movement of standard or regular service (not giant type) refrigerator cars of the Pacific Fruit Express Company when so loaded to destinations located in Mexico.

The waybills shall show reference to this general permit.

This permit shall become effective at 12:01 a. m., January 13, 1944.

A copy of this general permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 12th day of January 1944.

HOMER C. KING,
Director.

[F. R. Doc. 44-764; Filed, January 14, 1944;
11:04 a. m.]

OFFICE OF PRICE ADMINISTRATION.

[Order A-1 Under MPR 188, Amdt. 27]

COMMON BRICK

MODIFICATION OF MAXIMUM PRICES

Amendment No. 27 to order No. A-1 under § 1499.159b of Maximum Price Regulation No. 188. Manufacturers' maximum prices for specified building materials and consumers' goods other than apparel. Modification of maximum prices in Maximum Price Regulation No. 188.

An opinion accompanying Amendment No. 27 to Order No. A-1 has been issued simultaneously herewith and filed with the Division of the Federal Register.

Order No. A-1 is amended by adding a new paragraph (a) (24) to read as follows:

(24) Modification of maximum prices for common brick. (i) The manufacturers maximum price for common brick produced in the state of New Jersey established pursuant to the General

Maximum Price Regulation or Maximum Price Regulation No. 188, as amended, may be modified by adding an amount not in excess of \$2.00 per thousand to the f. o. b. plant price or the delivered price.

(ii) Any dealer purchasing common brick for resale, from any manufacturer who has modified his maximum price in accordance with this subparagraph may increase his presently established maximum price by the dollar amount equal to his actual dollar increase in cost resulting from the increase permitted in subdivision (i) above.

(iii) Discounts and other price differentials and others terms and conditions of sale shall be at least as favorable to purchasers as those which were in effect by each seller to his several classes of purchasers during March 1942.

(iv) In the event any seller subject to this subparagraph has charged and collected for the sale of common brick, delivered pursuant to a contract or agreement for adjustable pricing, an amount in excess of the maximum prices established herein such seller must refund to the purchaser the excess amount. If any contracts have been negotiated at a price higher than that specified in this subparagraph, such price must be adjusted downward to the maximum prices established herein.

(v) This subparagraph (24) may be amended or revoked by the Price Administrator at any time.

This amendment shall become effective January 15, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 14th day of January 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-775; Filed, January 14, 1944;
11:40 a. m.]

[Order A-2 Under MPR 188, Amdt. 10]

TALC AND GROUND SOAPSTONE, INCLUDING CRAYONS

ORDER GRANTING ADJUSTMENT

Amendment No. 10 to Order No. A-2 under § 1499.159b of Maximum Price Regulation No. 188. Manufacturers' maximum prices for specified building materials and consumers' goods other than apparel. Modification of adjustment provisions under Maximum Price Regulation No. 188.

An opinion accompanying this amendment, issued simultaneously herewith, has been filed with the Division of the Federal Register.

Paragraph (a) (10) is added to read as follows:

(10) Talc and ground soapstone, including crayons. This subparagraph permits the granting or relief to producers of talc and ground soapstone, including crayons, who are unable to maintain their production under their existing maximum prices whenever there is a gen-

eral shortage in the essential supply of the commodity. The extent of relief to be granted under this subparagraph is set forth herein.

(i) Whenever it has been certified by the War Production Board or other responsible government agency that a shortage exists or threatens to exist in the essential supply of talc and ground soapstone, including crayons, and that a producer of such commodities is unable to maintain his production at his maximum price or prices, the Office of Price Administration may, either on application for adjustment in accordance with the provisions of Revised Procedural Regulation No. 1, or on its own motion, by order, adjust his maximum price or prices by an amount necessary to permit the maintenance of such production upon a basis not in excess of the cost to produce and sell.

In determining the amount of adjustment which may be granted, consideration will be given to such factors whenever applicable as:

(a) Revenue from sales of such commodity and from all other sources; and

(b) Inventories, mining, development, milling, processing, transportation costs, cost of material, labor, maintenance, supplies, workmen's compensation taxes, power, taxes (other than State and Federal income taxes), insurance, royalties, depreciation and depletion (wherever practicable as determined by the Bureau of Internal Revenue in the computation of the Federal income tax), other production expenses, and reasonable costs of selling and administration. Expenses not related to the conduct of the producing and selling operations of the particular commodity will be excluded.

(ii) *What applicant should do before filing application.* Before filing an application for adjustment under the provisions of this subparagraph, each applicant shall obtain from the Office of Price Administration, Building Materials Price Branch, Washington 25, D. C., a statement of the specific information that will be necessary in order that his application may receive attention.

(iii) *Passing on of permitted increase by levels beyond the producer.* In issuing adjustment orders under this subparagraph, the Price Administrator will, wherever required, provide the extent to which any increase permitted under this subparagraph, by way of adjustment, may be added to the maximum price or prices of sellers other than the producer.

This Amendment No. 10 shall become effective January 15, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

NOTE: The reporting requirements of this Amendment have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Issued this 14th day of January 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-774; Filed, January 14, 1944;
11:40 a. m.]

[Order 1155 Under MPR 188]

LETRAW MANUFACTURING CO.

APPROVAL OF MAXIMUM PRICES

Order No. 1155 under § 1499.158 of Maximum Price Regulation No. 188. Manufacturers' maximum prices for specified building materials and consumers' goods other than apparel. Approval of maximum prices for sales of two pot scourers manufactured by Letraw Manufacturing Co.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order Nos. 9250 and 9328, It is ordered:

(a) This Order No. 1155 establishes maximum prices for sales of two new pot scourers manufactured by Letraw Manufacturing Co., 229 W. Illinois Street, Chicago, Illinois.

(1) For sales by the manufacturer to dealers, the maximum prices are those set forth below, f. o. b. Chicago, Illinois:

"Liberty" Pot Scourer, \$8.47 per gross;
"Ace" Pot Scourer, \$6.34 per gross.

(2) For sales at retail, the maximum prices are those set forth below:

"Liberty" Pot Scourer, \$0.10 each;
"Ace" Pot Scourer, 2 for \$0.15.

(b) To each pot scourer shipped to a purchaser for resale, the manufacturer shall attach a tag or label which plainly states the retail ceiling price.

(c) On and after January 15, 1944, at the time of the first invoice, the manufacturer shall notify in writing each dealer who purchases from it of the maximum prices established by this order for resale by the purchaser. This written notice may be given in any convenient form.

(d) This Order No. 1155 may be revoked or amended by the Price Administrator at any time.

(e) Unless the context otherwise requires, the definitions set forth in § 1499.20 of the General Maximum Price Regulation shall apply to the terms used herein.

This Order No. 1155 shall become effective January 15, 1944.

Issued this 14th day of January 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-776; Filed, January 14, 1944;
11:40 a. m.]

[Order 1156 Under MPR 188]

WARREN TELECHRON CO.

APPROVAL OF MAXIMUM PRICES

Order No. 1156 under § 1499.158 of Maximum Price Regulation No. 188. Manufacturers' maximum prices for specified building materials and consumers' goods other than apparel. Approval of maximum prices for sales of two elec-

tric alarm clocks manufactured by Warren Telechron Company.

For the reasons set forth in an opinion issued simultaneously herewith and filed with the Division of the Federal Register, and pursuant to the authority vested in the Price Administrator by the Emergency Price Control Act of 1942, as amended, and Executive Order Nos. 9250 and 9328, *It is ordered:*

(a) This order No. 1156 establishes maximum prices for sales of two new electric alarm clocks manufactured by Warren Telechron Company, Ashland, Massachusetts, and described in an application dated December 7, 1943.

(1) For sales by the manufacturer, the maximum price is \$2.63 per clock, f. o. b. Ashland, Massachusetts.

(2) For sales at wholesale, the maximum price is \$3.15 per clock, f. o. b. seller's city.

(3) For sales at retail, the maximum price is \$5.25 per clock.

(b) The manufacturer shall plainly mark each clock with the retail ceiling price before shipping it to a purchaser for resale. This may be done by marking the case or by attaching a tag or label.

(c) On and after January 15, 1944, at the time of the first invoice, the manufacturer shall notify in writing each wholesaler and each wholesaler shall notify in writing each retailer who purchases from him of the maximum prices established by this order. This written notice may be given in any convenient form.

(d) This Order No. 1156 may be revoked or amended by the Price Administrator at any time.

(e) Unless the context otherwise requires, the definitions set forth in § 1499.20 of the General Maximum Price Regulation shall apply to the terms used herein.

This Order No. 1156 shall become effective January 15, 1944.

Issued this 14th day of January 1944.

CHESTER BOWLES,
Administrator.

[F. R. Doc. 44-777; Filed, January 14, 1944;
11:41 a. m.]

Regional and District Office Orders.

[Region IV Order G-3 Under MPR 165]

VEGETABLE PACKING SERVICES IN FLORIDA

Order No. G-3 under § 1499.114 (d) of Maximum Price Regulation No. 165. Adjustment of maximum price for vegetable packing services sold by sellers in the State of Florida.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.114 (d) of Maximum Price Regulation No. 165, *It is hereby ordered:*

(a) On and after the effective date of this order, sellers located in the State of Florida, may sell and offer to sell vegetable packing services at prices no higher than the following:

Each seller shall arrive at his maximum price for any particular service by taking the sum of the following:

a. Such seller's established ceiling price for the particular service; plus,

b. The actual lawful per unit increase in labor cost over the same cost for the 1941-1942 packing season; plus,

c. The actual lawful increase in the per unit material cost over the average cost for the 1941-1942 season.

Provided, however, The maximum increase shall not, in any event, exceed 25% of such seller's present maximum price.

In calculating the permitted per unit labor and material cost increases, the seller shall use, as a basis of computing the allowable increase, the material and wage cost rate in effect during the first week of the particular seller's operations for the current 1943-44 packing season.

(b) Lower prices than those provided herein may be charged.

(c) *Definitions.* (1) Except as provided herein, and unless the context otherwise requires, the definitions set forth in § 1499.116 of Maximum Price Regulation No. 165 shall apply to the terms used herein.

(d) The seller herein named shall keep posted at a conspicuous place in his place of business a copy of this order and opinion.

(e) Except as otherwise provided herein, all transactions subject to this order shall remain subject to all of the provisions of Maximum Price Regulation No. 165, together with all amendments, supplementary regulations and orders that heretofore have been, or hereafter may be, issued.

(f) As soon as the reporting requirements of the Bureau of the Budget are met, each seller increasing his price pursuant to this order will be required to submit a report to the appropriate office of the Office of Price Administration showing such seller's existing maximum price, such seller's adjusted maximum price pursuant to the terms of this order, and showing the manner in which such adjusted maximum price was reached under this order. This report shall be made on such form and pursuant to such provision as may later be incorporated by amendment to this order.

(g) All requests contained in any individual application exceeding the adjustment permitted in this order are, to the extent of such excesses, hereby denied.

(h) Insofar as this order constitutes a partial denial of any individual seller's application for adjustment, such seller may file a request for review in the manner set out in § 1300.17 of Revised Procedural Regulation No. 1.

(i) This order may be revoked, amended or corrected at any time.

(j) This order shall become effective September 1, 1943.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued December 1, 1943.

JAMES C. DERIEUX,
Regional Administrator.

[F. R. Doc. 44-729; Filed, January 13, 1944;
3:07 p. m.]

[Region VI Order G-13 Under SR 15 and MPR 280, Amdt. 1]

FLUID MILK IN PARIS, ILL.

Amendment No. 1 to Order No. G-13 under § 1499.75 (a) (9) of Supplementary Regulation No. 15 to the General Maximum Price Regulation, and under Maximum Price Regulation No. 280. Maximum prices for specific food products. Adjustment of fluid milk prices for Paris, Illinois.

For the reasons set forth in an opinion issued simultaneously herewith and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1499.75 (a) (9) of Supplementary Regulation No. 15 to the General Maximum Price Regulation, by § 1351.807 (a) of Maximum Price Regulation No. 280, *It is hereby ordered:*

That section (c) be amended to read as set forth below:

(c) *Maximum distributor prices.* The maximum price for the sale and delivery of fluid milk at wholesale and retail in the Paris, Illinois area shall be the maximum price determined under the General Maximum Price Regulation, or the following prices, whichever shall be the higher:

	Wholesale	Retail
	Cents	Cents
1. Standard butterfat content milk and chocolate drink:		
Sales in bulk, per gallon.....	40	-----
Sales in bottles and paper containers:		
Gallon.....	40	47
Quart.....	11	13
Pint.....	7	8
Half pint.....	3½	5
2. Buttermilk:		
Sales in bulk, per gallon.....	34	-----
Sales in bottles and paper containers:		
Gallon.....	34	39
Quart.....	10	12

This Amendment No. 1 to Order No. G-13 shall become effective January 1, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871; E.O. 9328, 8 F.R. 4681)

Issued this 30th day of December 1943.

ALEX ELSON,
Acting Regional Administrator.

[F. R. Doc. 44-730; Filed, January 13, 1944;
3:08 p. m.]

[Region VI Order G-22 Under MPR 329]

FLUID MILK IN RHINELANDER, WIS.

Order No. G-22 under Maximum Price Regulation No. 329. Purchases of milk from producers for resale as fluid milk. Producers' milk prices in Rhinelander, Wisconsin.

For the reasons set forth in an opinion issued simultaneously herewith, and under the authority vested in the Regional Administrator of the Office of Price Administration by § 1351.408 (b) of Maximum Price Regulation No. 329; *It is hereby ordered:*

(a) The maximum price which distributors may pay to producers of milk sold for human consumption in fluid

form shall be \$.80 per pound of butterfat contained in whole milk.

(b) This order shall apply to all purchases of milk from producers for resale for human consumption in fluid form, by distributors whose bottling plants are located within Rhinelander, Wisconsin, or who sell within that city 50% or more of the milk sold by them, except that this order shall apply only to purchases from producers from whom such distributors purchased milk in August or September, 1943, and is not applicable to purchases from producers who did not in August or September, 1943 sell to any Rhinelander distributor.

(c) Unless the context otherwise requires, the definitions set forth in § 1351.404 of Maximum Price Regulation No. 329 and section 304 of the Emergency Price Control Act of 1942, as amended, shall be applicable to the terms used herein.

(d) Except as modified by this order, the provisions of Maximum Price Regulation No. 329 shall remain in full force and effect and shall not be evaded by any change in the customary delivery practices or other business or trade practices in effect in January of 1943.

(e) This order may be revoked, amended or corrected at any time.

This order shall be effective January 3, 1944.

(56 Stat. 23, 765; Pub. Law 151, 78th Cong.; E.O. 9250, 7 F.R. 7871 and E.O. 9328, 8 F.R. 4681)

Issued this 30th day of December 1943.

ALEX ELSON,
Acting Regional Administrator.

[F. R. Doc. 44-733; Filed, January 13, 1943;
3:08 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File Nos. 54-79, 59-52]

NIAGARA HUDSON POWER CORP. AND BUFFALO, NIAGARA AND EASTERN POWER CORP.

ORDER POSTPONING HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 10th day of January 1944.

In the matter of Niagara Hudson Power Corporation, Buffalo, Niagara and Eastern Power Corporation, applicants, File No. 54-79; Niagara Hudson Power Corporation and its subsidiary companies, respondents, File No. 59-52.

The Commission having previously designated January 18, 1944 as the date for hearing in the above consolidated proceeding involving the application of Niagara Hudson Power Corporation and Buffalo, Niagara and Eastern Power Corporation, under section 11 (e) of the Public Utility Holding Company Act of 1935 for approval of a "Plan of Reorganization of the Niagara Hudson System" and the proceeding instituted by the

Commission under sections 11 (b) (2), 12 (c), 12 (f), 15 (f) and 20 (a) of said act with respect to said Niagara Hudson Power Corporation and its subsidiary companies; and

Counsel for the applicants having requested that the hearing in this matter be postponed until February 8, 1944, and other interested persons having concurred in the request; and the Commission deeming it appropriate that said request be granted;

It is ordered, That the hearing in this matter previously scheduled for January 18, 1944, at 10:00 a. m., e. w. t., in the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, be, and hereby is, postponed to February 8, 1944, at the same hour and place and before the same Trial Examiner as heretofore designated.

It is further ordered, That the time within which any person desiring to be heard or otherwise to participate in the above proceeding shall file his request or application therefor with the Secretary of the Commission, as provided by Rule XVII of the Commission's Rules of Practice, be, and the same hereby is, extended to February 3, 1944.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F. R. Doc. 44-722; Filed, January 13, 1944;
3:02 p. m.]

[File No. 70-841]

THE UNITED GAS IMPROVEMENT CO.

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 11th day of January 1944.

Notice is hereby given that a declaration or application (or both) has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by The United Gas Improvement Company, a registered holding company.

Notice is further given that any interested person may, not later than January 24, 1944, at 10:00 a. m., e. w. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter, said declaration or application, as filed or as amended, may be granted, as provided in Rule U-23 of the rules and regulations promulgated pursuant to said act, or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania.

All interested persons are referred to said declaration or application, which is

on file in the office of the said Commission, for a statement of the transactions therein proposed, which are summarized below:

The United Gas Improvement Company proposes to change its 35,000,000 authorized shares of no par capital stock into 3,500,000 shares of \$13.50 par value each, and similarly to convert its 23,250,000 outstanding shares of no par capital stock into 2,325,200 shares with a par value of \$13.50 each, on the basis of a proposed exchange of one share of the new stock for each ten shares of the present stock.

In lieu of fractional shares of the new stock, it is proposed to issue non-voting scrip in bearer form, which, during a period of one year commencing on or about September 7, 1944, will be exchangeable, in combination with other similar scrip, for the number of full shares represented thereby. After the one-year period, it is proposed to pay and discharge the scrip in cash on the basis of the average closing price of the stock for the period from September 10 to September 14, 1945, inclusive.

The difference of \$549,240 between the stated capital presently applicable to the capital stock of the company (\$31,939,440) and the stated capital represented by the shares of the proposed new capital stock (\$31,390,200) will be credited to the capital surplus account, and the 2,424 shares of present capital stock now held in the treasury of the company will be cancelled and retired by charging capital surplus with \$3,334.

The stated purposes of the proposed transactions are to reduce the number of shares of capital stock so that they will be more proportionate to the substantially reduced assets of the company; to make the new shares more acceptable as collateral security than the present shares selling under \$5 per share; and to reduce brokerage commissions on purchases or sales and transfer taxes on sales of the stock.

The proposed transactions will be submitted to a stockholders' vote at the next annual meeting of stockholders, scheduled for May 1, 1944.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[F. R. Doc. 44-723; Filed, January 13, 1944;
3:02 p. m.]

[File Nos. 54-87, 59-7]

FEDERAL LIGHT AND TRACTION CO., ET AL.

NOTICE OF FILING AND NOTICE OF AND ORDER FOR HEARING ON PLAN AND ORDER FOR CONSOLIDATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pennsylvania, on the 11th day of January 1944.

In the matter of Federal Light and Traction Company and its subsidiary companies, File No. 54-87; Cities Service Power & Light Company and its subsidiary companies, File No. 59-7.

I

The Commission having heretofore, in proceedings under section 11 (b) (1) of the Public Utility Holding Company Act of 1935, ordered Federal Light & Traction Company ("Federal"), a registered holding company, to divest itself of its interests in its subsidiaries operating in the States of Missouri and Wyoming, and having reserved jurisdiction as to the retainability by Federal of its interests in Deming Ice and Electric Company and The Tucson Gas Electric Light and Power Company, and of the gas and nonutility businesses conducted by other subsidiary companies of Federal operating in the States of New Mexico and Colorado,

Notice is hereby given that Federal has filed with this Commission a plan of reorganization pursuant to section 11 (e) of the act proposing action designed to reduce the capitalization of Federal to a single class of stock, namely, common stock, and to merge or consolidate Federal and its subsidiary companies operating in the States of Colorado, New Mexico and Arizona, into a single utility company operating in such States (said company being hereafter referred to as the "New Company"). Federal also proposes to dispose of all of its other interests.

All interested persons are referred to the plan which is on file in the office of the Commission for a full statement of the transactions therein proposed which are summarized as follows:

1. Federal has outstanding (as at October 31, 1943) 524,903 shares, par value \$15 per share (aggregating \$7,873,545 par value) of common stock and 43,621 shares (exclusive of 753 shares held in treasury) of no par value \$6 cumulative preferred stock having a stated value of \$4,312,948.51. It has no outstanding funded debt. Federal proposes to negotiate a bank loan in the sum of \$1,000,000 for a term of two years. If the loan is secured, a matter not presently determined, the Loan Agreement will provide that the securities of Springfield Gas and Electric Company, Sheridan County Electric Company and Tucson Rapid Transit Company held by Federal will be pledged as collateral security for the payment of the loan and, upon the proposed disposition by Federal of those securities as hereinafter set forth, the proceeds thereof will be used to reduce or pay off the amount of the loan. A copy of the Loan Agreement in definitive form will be filed with the Commission on or before the date of the first hearing on the plan. With the proceeds of the loan and its other cash resources, Federal proposes to retire its outstanding preferred stock by the payment of the liquidating value of \$100 per share, aggregating \$4,362,100 plus accrued dividends to date of payment. The present call price of the preferred stock is \$110 per share.

Federal requests that, as a first step in the consummation of the plan, the Commission approve the making of the loan and the application of the proceeds and other cash to the retirement of the out-

standing preferred stock of Federal in the manner proposed.

2. The plan proposes that Federal dispose of its interests in Springfield Gas and Electric Company, Sheridan County Electric Company and Tucson Rapid Transit Company. However, if at the time of the merger or consolidation referred to above, Federal shall not have disposed of its interests in such companies the New Company will acquire such interests in the merger subject, however,

	Nature of business	Location
Albuquerque Gas and Electric Co.	Electric and Gas	New Mexico.
Deming Ice and Electric Co.	Electric and Ice	New Mexico.
The Las Vegas Light and Power Co.	Electric	New Mexico.
New Mexico Power Co.	Electric and Water	New Mexico.
The Trinidad Electric Transmission, Railway and Gas Co.	Electric and Gas	Colorado and New Mexico.
Stonewall Electric Co.	Electric	New Mexico and Arizona.

(Stonewall Electric Company also owns certain electric properties in Wyoming which, under the plan, are to be disposed of together with the properties of the Sheridan County Electric Company.)

The New Company will be duly qualified to carry on a utility business in the States of Arizona, New Mexico and Colorado. The New Company will issue to the holders of the present common stock of Federal, common stock in a par value of \$7,873,545 being equal to the aggregate par value of the common stock of Federal presently outstanding.

4. Federal requests that the Commission enter an order approving the plan as necessary to effectuate the provisions of section 11 (b) of the act and as fair and equitable to the persons affected thereby, and it further requests that such order or orders of the Commission in this proceeding relating to the various steps or matters involved in the plan conform to the requirements of sections 371 and 1808 of the Internal Revenue Code by including therein a determination that the particular transaction or transactions involved are necessary or appropriate to the integration or simplification of the holding company system and are necessary or appropriate to effectuate the provisions of section 11 (b) of the act.

II

The Commission having heretofore instituted a proceeding (File No. 59-7) under section 11 (b) (1) of the act involving the holding company system of Cities Service Power & Light Company and the holding company system of Federal, a subsidiary thereof, and the Commission on August 17, 1943, having issued an order in the section 11 (b) (1) proceeding directing comprehensive action under the standards of that section, including action to be taken by Federal, and having reserved jurisdiction as to certain issues, including the retainability by Federal of its Tucson, Arizona, and Deming, New Mexico, properties, and the Commission on October 27, 1943, having issued an order reconvening the hearings for the purpose of considering the issues as to which jurisdiction had been reserved in the order dated August 17, 1943, and certain other issues as to which jurisdiction had been reserved and leave to

to any pledge thereof to secure the bank loan, and subject further to the condition that any order of the Commission approving the plan may require the New Company to dispose of its interests therein.

3. It is proposed that the present Federal company together with the following named subsidiary operating companies be merged or consolidated into The Tucson Gas Electric Light and Power Company as the surviving company (New Company):

introduce additional evidence granted by the Commission in its order dated September 10, 1943, and hearings having been held as to certain of such matters and having been continued on December 2, 1943, subject to call; and

The Commission being required by the provisions of section 11 (e) of the act, before approving any plan thereunder, to find, after notice and opportunity for hearing, that such plan as submitted or as modified is necessary to effectuate the provisions of subsection (b) of section 11 and is fair and equitable to the persons affected by the plan, and it appearing appropriate to the Commission, in the public interest and in the interest of investors and consumers, that notice be given and a hearing be held upon the plan to afford all interested persons an opportunity to be heard with respect thereto; and

It appearing that the matters to be considered in connection with the proposed plan of Federal (File No. 54-87), and certain of the matters to be considered in said proceeding instituted by the Commission under section 11 (b) (1) (File No. 59-7), are related and involve common issues of law and of fact and that a consolidation of such matters and issues for hearing would be in the interest of expeditious procedure,

III

It is ordered, That said proceedings be and the same are hereby consolidated.

It is further ordered, That a hearing on such matters (including all issues in respect of the proposed plan of reorganization and all issues affecting Federal Light & Traction Company and its subsidiary companies as to which the Commission reserved jurisdiction and granted the right to introduce additional evidence in said Orders, dated August 17, 1943, and September 10, 1943) be held at 10 o'clock A. M., E. W. T., on the 27th day of January 1944, at the office of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania, in such room as may be designated at that time by the hearing room clerk in Room 318. All persons desiring to be heard or

otherwise wishing to participate in the proceedings should notify the Commission in the manner provided by Rule XVII of its Rules of Practice, on or before January 25, 1944.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under section 18 (c) of said act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That without limiting the scope of the issues presented by said plan, particular attention will be directed at the hearing to the following matters and questions, in addition to the issues relating to Federal Light & Traction Company and its subsidiary companies as to which the Commission has reserved jurisdiction and granted the right to introduce additional evidence in said Orders dated August 17, 1943, and September 10, 1943:

1. Whether the proposed plan of Federal is in conformity with the requirements of the Commission's said orders dated August 17, 1943, and September 10, 1943;

2. Whether said plan, as submitted or as it may subsequently be modified, is necessary to effectuate the provisions of section 11 (b) of the act and fair and equitable to the persons affected, particularly with respect to the proposed retirement of Federal's preferred stock at less than the call price of \$110 per share;

3. Whether the proposed acquisitions of utility assets and securities by the New Company will tend toward the economical and efficient development of an integrated public-utility system, and whether the proposed merger or consolidation will be detrimental to the carrying out of the provisions of section 11 (b) of the act;

4. Whether the accounting entries proposed in connection with said plan and all transactions incident thereto are appropriate and in accordance with sound accounting principles and practices and the applicable statutory standards;

5. Whether the fees and expenses to be paid in connection with said plan and all transactions incident thereto are for necessary services and are reasonable in amount;

6. Generally, whether the proposed transactions are in all respects in the public interest and in the interest of investors and consumers and consistent with all applicable requirements of the act and the rules thereunder, and if not what modifications should be required to be made therein and what terms and conditions should be imposed.

It is further ordered, That Issue 3 above, and the issues relating to the retainability by Federal Light & Traction Company of its interests in The Tucson Gas Electric Light and Power Company, Deming Ice and Electric Company, Tucson Rapid Transit Company, Federal Realty Company, and those properties

of Stonewall Electric Company which are adjacent to the properties of The Tucson Gas Electric Light and Power Company, be first considered at the consolidated hearing, and that, when the record is completed with respect thereto, such issues be submitted to the Commission for determination.

It is further ordered, That notice of this hearing be given to Federal Light & Traction Company, to the City of Tucson, Arizona, and to all other persons, said notice to be given to Federal Light & Traction Company, and to the City of Tucson by registered mail and to all other persons by general release of this Commission, which shall be distributed to the press and mailed to the mailing list for releases issued under the Holding Company Act of 1935, and by publication in the FEDERAL REGISTER.

It is further ordered, That Federal shall give notice of this hearing to its preferred stockholders by mailing to each record holder of its preferred stock a copy of this notice of filing and order for hearing at his record address at least 10 days prior to the date set for hearing herein.

It is further ordered, That jurisdiction be and is hereby reserved to separate, whether for hearing, in whole or in part, or for disposition, in whole or in part, any of the issues, questions or matters hereinbefore set forth or which may arise in this proceeding, or to consolidate with these proceedings other filings or matters pertaining thereto or to take such other action as may appear conducive to an orderly, prompt and economical disposition of the matters involved.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 44-724; Filed, January 13, 1944;
3:02 p. m.]

[File Nos. 59-26, 70-403]

FLORIDA POWER & LIGHT CO., ET AL.
ORDER DENYING REHEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 12th day of January, A. D. 1944.

In the matter of Florida Power & Light Company, American Power & Light Company, Electric Bond and Share Company, File No. 59-26; Florida Power & Light Company, American Power & Light Company, File No. 70-403.

The Commission having issued its order herein dated December 28, 1943 (Holding Company Act Release No. 4791) granting applications and permitting declarations to become effective with respect to a proposed recapitalization of Florida Power & Light Company, and approving certain accounting entries to be made on the books of said company;

The Commission by said order having also directed Florida Power & Light Company:

(a) To classify \$1,815,655 in Account No. 107 and to eliminate the same from plant account by charge to earned sur-

plus not later than December 31, 1944; and

(b) To appropriate out of earned surplus a contingency reserve of at least \$700,000 annually, pending final determination of the amount and disposition to be made of Account No. 100.5 items presently in the plant account;

The Commission having provided in said order that the requirements described in paragraphs (a) and (b) above should be severable from the remaining portions of said order and should not be deemed conditions to the granting of the applications and the effectiveness of the declarations regarding the transactions approved in said order;

Florida Power & Light Company and American Power & Light Company having filed herein their petition for rehearing with respect to the matter described in paragraphs (a) and (b) above, which petition raises no questions which were not fully considered by the Commission when it formulated its findings and opinion accompanying its aforesaid order; and

It appearing to the Commission that no useful purpose would be served by having a rehearing with respect to the matters in question, *It is ordered,* That the aforesaid petition for rehearing be and it hereby is denied.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 44-725; Filed, January 13, 1944;
3:02 p. m.]

[File Nos. 70-641, 59-62]

GENERAL GAS & ELECTRIC CORP., ET AL.
SUPPLEMENTAL FINDINGS AND ORDER
APPROVING PLAN

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia 3, Pa., on the 11th day of January 1944.

In the matter of General Gas & Electric Corporation, Florida Power Corporation, Florida Public Service Company, Sanford Gas Company, Sante Fe Land Company, Georgia Power and Light Company, File No. 70-641; Georgia Power and Light Company, General Gas & Electric Corporation, File No. 59-62.

The Commission having, on September 7, 1943, issued its order herein (Holding Company Act Release No. 4545), with respect to, among other things, the merger into Florida Power Corporation of Florida Public Service Company and the accompanying transfers, conveyances, exchanges and related transactions, and the issuance by Florida Power Corporation of 3,000,000 shares of new no par value common stock;

The applicants-declarants having now filed amendments adding certain additional matter and data to the record in these proceedings; making certain representations on the part of General Gas & Electric Corporation (Gengas) and Denis J. Driscoll and Willard L. Thorp, Trustees of Associated Gas and Electric Corporation (Trustees); requesting that the transactions proposed in the instant

filings be considered as a plan under section 11 (e) of the act, and that such plan be approved as "necessary to effectuate the provisions of subsection (b) and fair and equitable to the persons affected by such plan"; and requesting that the Commission supplement its order of September 7, 1943, so as to include therein said approval under section 11 (e), and so as to set forth the recitals specified in section 371 (b), section 373 (a) and section 1808 (f) of the Revenue Code, as amended; and Gengas and Trustees having included in said amendment an agreement to accept the provision hereinafter imposed;

On the basis of said amendments and of all the facts set forth in the record, including the representations of Gengas described in paragraph 3 below, the Commission makes the following findings:

1. That on September 4, 1941, the Commission instituted proceedings against Denis J. Driscoll and Willard L. Thorp, Trustees of Associated Gas and Electric Corporation (File No. 59-32) pursuant to section 11 (b) (1) of the Public Utility Holding Company Act of 1935 and that in response thereto an answer was filed which, among other things, proposed that as a step in effectuating the requirements of section 11 (b) (1) of the Public Utility Holding Company Act of 1935 the Florida and Georgia properties of the Gengas holding company system were to be grouped into a single system;

2. That the consummation of the merger of Florida Public Service Company into Florida Power Corporation and the issuance by Florida Power Corporation of 3,000,000 shares of no par value common stock will facilitate action by Trustees and Gengas either to distribute these shares to the public security holders of the holding company system in liquidation of security holders' claims, or, in the alternative to sell such securities for cash and use the proceeds to liquidate claims of such security holders; and

3. That Gengas and Trustees have represented to the Commission in said amendments that they anticipate complying with the provisions of section 11 (b) (1) of the act by, among other things, the eventual distribution of these 3,000,000 shares of Florida Power Corporation to public security holders or by sale of said holdings to non-affiliated interests;

4. That the consummation of (a) the merger of Florida Public Service Company into Florida Power Corporation by the transfer of its assets to Florida Power Corporation and the assumption by this latter corporation of the liabilities of Florida Public Service Company, and (b) the issuance to General Gas & Electric Corporation by Florida Power Corporation of 3,000,000 shares of its new no par value common stock are preliminary steps related to the above-described program of the Trustees of Associated Gas and Electric Corporation to effectuate compliance with the requirements of section 11 (b) (1) of the act, and that the transactions considered in the light of section 11 (e) of the act are necessary

to effectuate the provisions of subsection (b) and fair and equitable to the persons affected by such plan;

The Commission making said findings in reliance upon the statements of intention of Gengas and Trustees as set forth in paragraph 3 hereinabove set forth;

It is hereby ordered. That the order of the Commission issued herein on September 7, 1943, be, and hereby is, supplemented so as to include as part thereof the foregoing findings; and that on the basis of said findings the plan proposing the transactions above described be, and hereby is, approved, and that said transactions hereby are authorized, permitted, and approved as necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935; *Provided, however,* That if the interests of said Trustees and Gengas in said shares shall not be disposed of by distribution to public security holders or by sale to non-affiliated interests in accordance with the aforesaid representations of intention within two years from date of this order or upon the expiration of such earlier period as the Commission may hereafter designate pursuant to section 11 (b), the Commission may rescind so much of these supplemental findings and order as contain findings for the purpose of sections 371 (b), 373 (a), and 1808 (f) of the Revenue Code, as amended; said rescission not to affect the consummation or impair the validity of any of the transactions authorized and approved by the Commission in this consolidated proceeding by its order of September 7, 1943, or otherwise, nor shall anything herein alter or change the terms and conditions imposed by said order of September 7, 1943.

By the Commission.

[SEAL]

ORVAL L. DUBOIS,
Secretary.

[F. R. Doc. 44-726; Filed, January 13, 1944;
3:02 p. m.]

[File No. 54-51]

NATIONAL POWER & LIGHT COMPANY

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE AND SUPPLEMENTING ORDER DATED JANUARY 4, 1944

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pennsylvania, on the 12th day of January, A. D. 1944.

National Power & Light Company ("National"), a registered holding company, having filed an application and declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 and the Rules and Regulations promulgated thereunder, wherein National proposes to authorize The Pennsylvania Company for Insurances on Lives and Granting Annuities, as Successor Trustee under an Indenture of Mortgage dated July 1, 1901, to sell in the open market \$5,000 principal amount of City of Philadelphia 5% Loan of Oc-

tober 1, 1920, due January 1, 1951, and \$30,000 principal amount of County of Allegheny, Commonwealth of Pennsylvania, 4 1/4% Road Bonds, Series 34-B4, due August 1, 1951, now held by the Successor Trustee as collateral for the remaining \$25,000 principal amount outstanding with the public of noncallable Lancaster County Railway & Light Company Fifty-Year Five Per Cent. Collateral Trust Mortgage Gold Bonds, due July 1, 1951, heretofore assumed by National, and to authorize the Successor Trustee to retain from the proceeds of such sale, in full satisfaction of all obligations of National with respect to said bonds as set forth in an agreement to be executed between National, the Successor Trustee, and United States Fidelity and Guaranty Company, a sum equal to the aggregate of (1) the principal amount of said bonds outstanding, (2) an amount sufficient to pay interest at the rate of 5% per annum on said bonds until maturity, July 1, 1951, (3) an amount sufficient to pay all accrued and unpaid interest represented by coupons then validly outstanding, if any, and (4) the sum of \$1,185, representing the Successor Trustee's fee for services; and

Said application and declaration having been filed on December 16, 1943, and an amendment thereto having been filed on December 20, 1943, and notice of said filing having been given in the manner and form prescribed by Rule U-23 under said act, and the Commission not having received a request for hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon, and National having requested that the Commission make the findings specified in sections 1808 (f) and 371 (b) of the Internal Revenue Code, as amended; and

The Commission finding that the proposed transactions hereinabove described are steps in compliance with the order of the Commission dated August 23, 1941, issued pursuant to the provisions of section 11 (b) (2) of the act, directing the dissolution of National, and are not in contravention of the provisions of the act, or any rules or regulations thereunder, and the Commission deeming it in the public interest and in the interest of investors and consumers to grant said application and permit said declaration to become effective;

It is hereby ordered. Pursuant to Rule U-23 and the applicable provisions of said act, and subject to the terms and conditions prescribed in Rule U-24, that said application, as amended, be and hereby is granted and said declaration, as amended be and hereby is permitted to become effective forthwith.

It is further ordered. That the sale and transfer by National Power & Light Company of \$5,000 principal amount of City of Philadelphia 5% Loan of October 1, 1920, due January 1, 1951, and \$30,000 principal amount of County of Allegheny, Commonwealth of Pennsylvania, 4 1/4% Road Bonds, Series 34-B4 due August 1, 1951, are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Hold-

ing Company Act of 1935, and to comply with the Commission's order of August 23, 1941, and are necessary or appropriate to the integration or simplification of the holding company system of which National is a member, and said order of August 23, 1941 is hereby supplemented so as to authorize, permit and approve the sale and transfer of said securities in order to effectuate the provisions of section 11 (b) of said act and of said order dated August 23, 1941.

It is further ordered, That the order of the Commission dated January 4, 1944, In the Matter of National Power & Light Company, File No. 54-51, Application No. 7, is hereby supplemented to provide that the expenditure by National in the retirement of 12,000 shares of its \$6 preferred stock by payment to the holders thereof of cash in the amount of \$100 per share plus accumulated dividends thereon to the date fixed for retirement is necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935, and to comply with the Commission's order dated August 23, 1941, and is necessary or appropriate to the integration or simplification of the holding company system of which National is a member, and said order of August 23, 1941, is hereby supplemented so as to authorize, permit and approve the retirement of said shares in order to effectuate the provisions of section 11 (b) of said act and of said order dated August 23, 1941.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 44-727; Filed, January 13, 1944;
3:03 p. m.]

[File No. 70-840]

BANGOR GAS COMPANY

NOTICE OF FILING AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Philadelphia, Pa., on the 11th day of January 1944.

Notice is hereby given that a declaration or application (or both) has been filed with this Commission pursuant to sections 6 (a) and 15 (f) of the Public Utility Holding Company Act of 1935 by Bangor Gas Company, a subsidiary of American Gas and Power Company, a registered holding company, in turn a subsidiary of Community Gas and Power Company, also a registered holding company.

All interested persons are referred to said declaration or application (or both), which is on file in the office of this Commission, for a statement of the transactions therein proposed, which are summarized below:

Bangor Gas Company proposes:

(a) To reduce the outstanding capital stock from \$600,000 par value to \$480,000 par value and create a capital surplus in the amount of \$120,000 and

(b) To eliminate from its balance sheet an account designated "Abandoned Property" in the amount of \$125,000 by

charging \$120,000 against said capital surplus and charging \$5,000 against earned surplus (at September 30, 1943, earned surplus amounted to \$67,396.51).

The declaration or application indicates that the proposed transactions have been authorized by the Public Utilities Commission of the State of Maine.

It appearing to this Commission that it is appropriate in the public interest and in the interest of investors and consumers that a hearing be held with respect to said matters and that said application or declaration shall not be granted or permitted to become effective except pursuant to further order of this Commission, It is ordered, That a hearing on said matters under the applicable provisions of said Act and the Rules of this Commission thereunder be held on January 24, 1944 at 10:00 a. m., e. w. t., at the offices of the Securities and Exchange Commission, 18th and Locust Streets, Philadelphia, Pennsylvania. On such date the hearing room clerk in Room 318 will advise as to the room in which said hearing will be held;

It is further ordered, That the Secretary of this Commission shall serve notice of said hearing by mailing a copy of this order to Bangor Gas Company; and that said notice of said hearing be given to all persons by publication of a copy of this order in the FEDERAL REGISTER. Any person desiring to be heard in connection with these proceedings or proposing to intervene herein shall file with the Secretary of the Commission on or before January 22, 1944, his request or application therefor as provided by Rule XVII of the Rules of Practice of this Commission;

It is further ordered, That Charles S. Lobingier or any other officer or officers of this Commission designated by it for that purpose shall preside at such hearing. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That without limiting the scope of the issues presented by said application or declaration (or both), particular attention will be directed at the hearing to the following matters and questions:

1. Whether the proposed transactions are in the public interest or in the interest of investors and consumers and whether in all respects the proposed transactions comply with all the applicable provisions and requirements of the Public Utility Holding Company Act of 1935 and the rules, regulations and orders promulgated thereunder;

2. Whether, and to what extent it is necessary or appropriate in the public interest to impose terms or conditions in regard to the accounts or capital stock of Bangor Gas Company, or otherwise in regard to the proposed transactions.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 44-728; Filed, January 13, 1944;
3:03 p. m.]

[File Nos. 70-178, 70-686]

PUBLIC SERVICE COMPANY OF OKLAHOMA, ET AL.

ORDER APPROVING PLAN

At a regular session of the Securities and Exchange Commission held at its office in the City of Philadelphia, Pennsylvania, on the 10th day of January 1944.

In the matter of Public Service Company of Oklahoma, Southwestern Light & Power Company, Central and South West Utilities Company and The Middle West Corporation, File No. 70-178; West Texas Utilities Company and American Public Service Company, File No. 70-686.

The Commission on the 3d day of August, 1943, issued its findings and opinion pursuant to the Public Utility Holding Company Act of 1935 regarding the proposed merger of Southwestern Light & Power Company into Public Service Company of Oklahoma and certain related transactions between The Middle West Corporation, Central and South West Utilities Company, American Public Service Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Light & Power Company, such opinion providing, however, that the order of the Commission with respect thereto should not issue until such time as Public Service Company of Oklahoma should have complied with the requirements of the Securities Act of 1933 with respect to the issue and sale of 15,000 shares of its preferred stock to be issued in connection with such merger. Such opinion further provided that jurisdiction be reserved with respect to the proposed issuance and sale by Public Service Company of Oklahoma of its bonds in the principal amount of \$6,600,000 for the purpose of redeeming \$6,648,000 principal amount of bonds of Southwestern Light & Power Company proposed to be assumed in connection with such merger.

Public Service Company of Oklahoma has now filed an amendment proposing merely to assume the \$6,648,000 principal amount of first mortgage bonds, Series "A", 3 3/4%, due December 1, 1969 of Southwestern Light & Power Company, and has also filed a registration statement under the Securities Act of 1933 with respect to the proposed issuance of the 15,000 shares of preferred stock of Public Service Company of Oklahoma which has become effective.

Our opinion herein discussed the proposed transactions on the basis that \$6,600,000 principal amount of Public Service Company of Oklahoma 3 3/4% bonds would be outstanding rather than on the basis that the \$6,648,000 principal amount of Southwestern Light & Power Company 3 3/4% bonds would be assumed and remain outstanding. It appears, however, that this change will not materially alter either the pro forma balance sheet or earnings statement shown in our opinion of August 3, 1943 and therefore warrants no different conclusion.

Public Service Company of Oklahoma has requested that the applications and declarations regarding the proposed

transactions be considered as a plan filed under section 11 (e) of the act and that the order of the Commission with respect to said transactions conform to the requirements of sections 371 (f), 373 (a) and 1808 (f), as amended, of the Internal Revenue Code.

The Commission finding that said applications and declarations regarding the proposed transaction constitute a plan under section 11 (e) of said Act, and that said plan is necessary to effectuate the provisions of section 11 (b) thereof and fair and equitable to the persons affected by such plan:

It is therefore ordered, That said plan be and hereby is approved, subject, however, to the conditions specified in Rule U-24 under said act.

It is further ordered, That the approval of said plan includes specific approval of the following transactions:

1. The issuance of 15,000 shares of 5% preferred stock by Public Service Company of Oklahoma;
2. The assumption of \$6,648,000 principal amount of 3¾% first mortgage bonds of Southwestern Light & Power Company by Public Service Company of Oklahoma;
3. The issuance by Public Service Company of Oklahoma of 11,167 shares of the \$100 par value common stock and the acquisition of such stock by The Middle West Corporation and the transfer by The Middle West Corporation of 11,167 shares of \$6 preferred stock of Southwestern Light & Power Company to Public Service Company of Oklahoma;
4. The sale and transfer of 9,679 shares of common stock of Public Service Company of Oklahoma by The Middle West Corporation to Central and South West Utilities Company and the sale and transfer of 1,488 shares of common stock of Public Service Company of Oklahoma by The Middle West Corporation to American Public Service Company and the acquisition of such stock by said companies;
5. The issuance by Central and South West Utilities Company of its 4% note in the principal amount of \$870,000 and the acquisition of such note by The Middle West Corporation;
6. The acquisition by American Public Service Company and The Middle West Corporation of such shares of preferred stock of Public Service Company of Oklahoma as may be required pursuant to the agreement between such companies and Public Service Company of Oklahoma executed in connection with the proposed merger of Public Service Company of Oklahoma and Southwestern Light & Power Company;
7. The acquisition by West Texas Utilities Company and the sale to it by American Public Service Company of such number of shares of the \$6 preferred stock of West Texas Utilities Company as will, at a price of \$69.17 per share, provide American Public Service Company with the approximate amount of funds as may be required by it pursuant to the agreement between

it and Public Service Company of Oklahoma in connection with the proposed merger of Public Service Company of Oklahoma and Southwestern Light & Power Company;

8. The solicitation by Public Service Company of Oklahoma with respect to its offer to exchange its preferred stock for the outstanding preferred stock of Southwestern Light & Power Company;

9. The acquisition by Public Service Company of Oklahoma and surrender by it for cancellation of such amount, not exceeding 15,000 shares, of the preferred stock of Southwestern Light & Power Company as may be acquired by it pursuant to such exchange offer;

10. The acquisition and retirement by Southwestern Light & Power Company from public holders thereof of such number of shares of its preferred stock as are not acquired by Public Service Company of Oklahoma pursuant to the exchange offer;

11. The redemption and retirement by Southwestern Light & Power Company of 363 shares of its Class A common stock, \$100 par value held by the public at its liquidating value of \$100 per share;

12. The redemption and retirement by Southwestern Light & Power Company of 134 shares of its common stock held by the public at \$21 per share;

13. The advance to Southwestern Light & Power Company by Public Service Company of Oklahoma on open account without interest of a sum sufficient to pay \$100 per share of the liquidation price payable in respect of such number of the 24,255 shares of the \$6 preferred stock of Southwestern Light & Power Company as are not acquired by Public Service Company of Oklahoma pursuant to the exchange offer; and

14. The transfer by Southwestern Light & Power Company and the acquisition by Public Service Company of Oklahoma of all the assets and assumption of all the liabilities of Southwestern Light & Power Company in exchange for any advances made to Southwestern Light & Power Company by Public Service Company of Oklahoma and all the outstanding capital stock of Southwestern Light & Power Company held by Public Service Company of Oklahoma.

It is further ordered, That said transactions and the above specified exchanges, expenditures, investments, distributions, issuances, transfers, conveyances, and sales included therein, are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935.

It is further ordered, That the report this day issued by the Commission with respect to the proposed offer of preferred stock of Public Service Company of Oklahoma in exchange for the outstanding preferred stock of Southwestern Light & Power Company be adopted as the report by the Commission pursuant to the provisions of section 11 (g) of the act and that a copy of such report be delivered

to each stockholder of Southwestern Light & Power Company solicited to accept such offer of exchange.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 44-648; Filed, January 12, 1944;
3:11 p. m.]

WAR PRODUCTION BOARD.

J. I. MARSH BOTTLING COMPANY

CONSENT ORDER

John H. Matiz of 3104 Scioto Trail, Portsmouth, Ohio, doing business as J. I. Marsh Bottling Company, is engaged in the bottling and distribution of non-alcoholic beverages, and was found in an investigation by the War Production Board on June 23 and 24, 1943, and September 17, 1943, to have used 4,621 gross of new closures of restricted materials for the period from June 1, 1942 to September 17, 1943, for the bottling of malt beverages and/or non-alcoholic beverages in excess of the quota permitted under the provisions of Conservation Order M-104. John Matiz admits the excess use as charged and has consented to the issuance of this order.

Wherefore, upon the agreement and consent of John H. Matiz, the Regional Compliance Chief and the Regional Attorney, and upon the approval of the Compliance Commissioner, *It is hereby ordered,* That:

(a) John H. Matiz, his successors or assigns, doing business as J. I. Marsh Bottling Company, or under any other name, shall reduce his use of new closures made of restricted materials, to be affixed to glass containers for malt and/or non-alcoholic beverages, under the quota he would otherwise be entitled to use in such a period, as defined by Conservation Order M-104, in the following amounts: First quarter of 1944, 647 gross; second quarter of 1944, 1,178 gross; third quarter of 1944, 1,178 gross; fourth quarter of 1944, 809 gross. Any exceptions to the afore-mentioned reduction in use must be specifically authorized in writing by the War Production Board.

(b) Nothing contained in this order shall be deemed to relieve John H. Matiz, doing business as J. I. Marsh Bottling Company or under any other name, from any restriction, prohibition or provision contained in any other order or regulation of the War Production Board, except in so far as the same may be inconsistent with the provisions hereof.

(c) This order shall take effect as of the date of issuance, and shall expire on December 31, 1944.

Issued this 13th day of January 1944.

WAR PRODUCTION BOARD,
By J. JOSEPH WHELAN,
Recording Secretary.

[F. R. Doc. 44-738; Filed, January 13, 1944;
4:39 p. m.]